The Solicitors' Journal

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Current Topics.

The Law Society at Oxford.

THE Forty-ninth Provincial Meeting which took place at Oxford under the Presidency of Sir REGINALD POOLE, from the 25th to the 28th September, was, in accordance with expectation, a complete success, and proved most enjoyable to those who were so fortunate as to be able to attend. Our special representative's general report of the proceedings appears at p. 667 of this issue, together with the text of the President's address and four of the papers read at the meeting, with the discussions thereon. A report of the Banquet held at the Town Hall on Tuesday evening, appears at p. 683. The other papers read at the meeting with the discussions thereon will be published in subsequent issues.

Royal Titles.

IN his valuable little book on "The Growth of the English Constitution," FREEMAN reminded us that the law of England knows no classes of men except peers and commoners, and, therefore, it followed that the younger children of the King—the eldest is born Duke of Cornwall—are in strictness of speech commoners, unless they are personally raised to the peerage. As we know, His Majesty's second son was raised to the peerage as Duke of York a few years ago and thus became entitled to sit in, and take part in the deliberations of, the House of Lords. BLACKSTONE tells us that the heir apparent to the Crown is usually made Prince of Wales and Earl of Chester by special creation and investiture, but being the King's eldest son he is by inheritance Duke of Cornwall without any new creation. Like other members of the highest rank in the peerage the Prince of Wales is the holder of a number of titles, these being selected from different parts of the kingdom. Thus, not only is he Prince of Wales and Earl of Chester, he is likewise Duke of Rothesay, Earl of Carrick, Baron of Renfrew and Lord of the Isles. Not often are these titles used by His Royal Highness, nor is he often styled by them, but it was recently brought home to the writer of this note that one of them at least is not forgotten in Scotland. At service in St. Giles Cathedral, which may be termed the state church of Scotland, the writer noted that in the prayer for the royal family, petition was made first for His Majesty King George, then for Her Majesty Queen Mary, and thereafter there followed a petition for "Edward, Duke of Rothesay," which may have caused some wonderment in the minds of certain members of the congregation who had forgotten that this title is the highest of those borne by the Prince when in Scotland. Scotsmen are proud of the Prince and like to remember that he bears an ancient Scottish title.

Right of Audience at Inquests.

THE refusal of the Croydon Borough coroner to allow questions to be put to witnesses by counsel for the Pedestrians Association at an inquest on a pedestrian on 21st September roused some unfavourable press comments. It was pointed out that the motorist can always put in an appearance and tender his explanation in cases where he has accidentally killed a pedestrian, but that the pedestrian, on the other hand, being dead, cannot do so, and may have no relatives, or none who can make an effective appearance. The coroner, however, put the matter quite fairly when he said that the matter was entirely in his discretion, but that he was only too glad to have legal representatives of any person interested. He added that he saw very great possible disadvantages in extending the present system of representation, as if he allowed counsel for the Pedestrians Association to put questions he should have to allow the R.A.C. and the A.A. and anyone who likes to come down, and they should never get done. The rights of the relatives of persons killed by accidents or explosions in coal mines, factories and workshops to attend and examine witnesses at inquests by themselves, counsel, solicitor or agent, were granted by the Coal Mines Act, 1911, and the Factory and Workshop Act, 1901, respectively. The coroner, however, has, apart from statute, a general right to exclude entirely from the inquest any persons whose presence he deems either not necessary or not proper: *Garnett* v. *Ferrand* (1827), 6 B. & C. 611. In *Barclee's Case* (1658), 2 Sid. 101; 82 E.R. 1279, Chief Justice GLYN stated that the coroner must allow counsel an audience, and it is on these two authorities that the present practice is based whereby the coroner allows representatives of relatives of the deceased to be present and question witnesses. In "Jervis on Coroners," 7th ed., at pp. 39, 40, the view is expressed that the coroner has a completely unfettered discretion as to what interests may be represented by counsel or solicitors and as to granting or disallowing speeches to the jury or questions to witnesses. There appears to be little doubt, however, on the authority of *Barclee's Case* (*supra*), that if, after a refusal of the coroner to allow examination on behalf of the relatives of the deceased, a jury's verdict of *felo de se* were returned, the inquisition would be liable to be quashed by the King's Bench Division. The Croydon coroner has clearly stated the difficulties inherent in the coroner's position and the next step lies with the Pedestrians Association, should they think it necessary or desirable, in the direction of securing an alteration of the law on this important matter.

Sunday Inquests.

ANOTHER, perhaps minor, point in connection with inquest law is raised by an inquiry being held on a Sunday, apparently not for the first time of late. The coroner's court is at least a court of investigation if not a court of record, for which latter status, however, there exists excellent authority. A judicial decision has to be arrived at by it upon the evidence before it. Now, Sunday is a *dies non juridicus*, and on it no judicial, as opposed to ministerial, act can legally be performed. The authorities are ancient, but, apparently, unquestioned. See "Coke," 9 Rep. 66*b*, Str. 387, 2 Saund. 290. Whether, however, a Sunday inquest would be quashed under s. 6 (1) (*b*) of the Coroners Act, 1887, for "irregularity of proceedings" is doubtful, unless such irregularity led to injustice.

A Cricket Ball Strikes a Wayfarer.

JUDGE CRAWFORD had recently to deal in the Romford County Court with a problem which has been discussed recurrently in these notes, largely because the very scanty authority on it found in the books offers no satisfactory solution to its difficulties. The plaintiff, an elderly man, sued two members of the Becontree United Cricket Club for damages in respect of injuries received by a blow from a cricket ball when he was on a road adjacent to the club's ground. There was a six-foot fence between ground and road, and, assuming them to be on approximately the same level, neither bowler nor batsman could see any of the wayfarers. The distance from the pitch was stated to have been eighty yards. A hit which pitches over a six-foot wall eighty yards away may be regarded as an unusually fine one, but within the competence of any reasonably strong batsman. The wayfarer being invisible to the players, the bowler could not wait until the road was vacant before he delivered his ball—indeed, cricket could not be carried on under such conditions. Therefore no negligence could be imputed to him, and still less to the batsman, who would have been negligent in his game if he had failed to punish a loose ball. The case of *Castle* v. *St. Augustine's Golf Links* (1922), 38 T.L.R. 615, which turned on the negligence of one who drove a golf ball, was distinguishable. Here the plaintiff did not know who hit the ball. His Honour dismissed the action. The legal argument does not appear from the report in *The Times*, 19th September, but he was bound by *Stanley* v. *Powell* [1891] 1 Q.B. 86 (the ricochet case), and his judgment accorded with it. His Honour observed that "Cricket was being played near the highway or in parks up and down the country, and it was putting forward a strong proposition to say that if a member of the public was struck, members of the club were liable." It may perhaps respectfully be suggested to Judge CRAWFORD that it is as strong, if not a stronger, proposition to tell the wayfarer that not only must he take the ordinary risks of being killed by a car or a runaway horse, but also those of being hit by a cricket or golf ball, pierced by an arrow, or "peppered" by a shot-gun in the hands of some near-by sportsman. This appears to be the alternative to Judge CRAWFORD'S. Readers will find the authorities fully discussed in previous notes (70 SOL. J. 638, 71 SOL. J. 147, 75 SOL. J. 237, and 76 SOL. J. 121), the conclusion being drawn that the ruling of DENMAN, J., in *Stanley* v. *Powell*, *supra*, should be reversed and that of the old case in the Year Book 21 Hen. VII, which he disapproved, restored. Such restoration would apply the doctrine of *Rylands* v. *Fletcher* (1868), L.R. 3, H.L. 330, to trespass to the person as that case applies it to trespass on land. Thus, anyone creating or releasing a dangerous force would be responsible that it did no hurt to others.

Liability of Club Members as such in Tort.

ANOTHER difficult point arose on the above case. The defendants were two members of the cricket club—how chosen does not appear—but neither of them was the batsman who hit the offending ball. Incidentally, if a match had been on, that batsman might with equal probability have been a stranger, a member of the opposing side. The proposition against the defendants must then have been that they were individually responsible in tort for the use made of the ground by the club, a use which led to someone, whether member or stranger, striking the ball out of the ground so that it injured the plaintiff. In the *St. Augustine's Case*, *supra*, the club was a limited company, so the difficulty did not arise. Probably only a few of the more important cricket clubs are incorporated. It is stated in "Halsbury's Laws," 2nd ed., vol. IV, p. 503, that "the question how far the members of a club are liable in tort for the wrongful acts and omissions of the committee, or of officers or servants of the club, is one in regard to which there is practically no authority." If it is doubtful whether members are responsible in tort for the committee which they elect for certain duties, responsibility for the doings of other members is a still stiffer proposition. In the *St. Augustine's Case* the judge found the thirteenth hole a public nuisance, and conceivably there might be a similar finding in respect of a cricket pitch which was very near a road. Perhaps all persons playing on such a pitch would be responsible for an accident to a passer-by from a "slog"—though a stout argument might be put up for players on the "in" side not actually batting, who might even be harmlessly engaged in refreshing themselves at the material time. If the pitch were a public nuisance perhaps all members of the club might be responsible, but if it was reasonably safe it might be difficult to bring their liability home to them. No doubt the provisions of Ord. 16, r. 9, could be invoked in a test action, some one member of the offending club being chosen as defendant.

The "Distortograph."

THE use of the camera as an aid to the art of caricature is likely to become more common in future as a result of the recent invention of the "Distortograph," a camera that can criticise by means of distortion. In an interview with the inventor, reported in *The Observer* of 17th September, it is stated that "the 'Distortograph' film takes a face—Mr. BALDWIN'S, Mr. LLOYD GEORGE'S or Big BILL THOMPSON'S—tweaks the nose out, elongates the jaw, hollows the cheek-bones," and it adds that "your 'Distortograph' is a natural cartoonist, and set it in front of another photograph or a portrait and it can produce caricatures without end." Those who desire to exploit this modern instrument of torture would do well to remember the words of LOPES, L.J., in *Monson* v. *Tussauds Ltd.* [1894] 1 Q.B., at p. 695, that "grotesque pictures of individuals may, I doubt not, be in certain circumstances actionable if anyone thought fit to notice them." It may well be doubted whether the elongation of the nose or the hollowing out of the cheeks of a famous statesman amounts to fair comment on a matter of public interest. It would also be as well if the user of the camera inquired into the question of copyright in any of the photographs which he may employ in his nefarious work. It is not always the person who gives the order for a photograph who is the owner of the copyright, but only in the absence of agreement to the contrary (Copyright Act, 1911, s. 5 (1) (*a*)); and where the photograph is made for valuable consideration (*ibid.*). Where the photographer first asks permission to take the photograph the copyright may still belong to the sitter if the circumstances are such as to give rise to an implication of consideration (*Sasha Ltd.* v. *Stoenesco* (1929), 45 T.L.R. 350). Considerations such as these may well restrain undue enthusiasm on the part of the budding caricaturist. Perhaps, however, the uses of the new machine will be confined to obtaining fantastic and burlesque effects in cinematograph films in which "the characters are entirely fictitious."

Americanisms in English Documents.

IN a will recently proved at Somerset House, the testator, an American gentleman with property in this country, expressed the wish that the document might be "probated" in England. No exception can, of course, be taken to a testator using his own language in his own will; but we hope that English conveyancers will not succumb to the apparent charm of this expression. For what at first sight seems to enrich our language actually impoverishes it. In every-day speech, many are beginning to imitate the American habit of making a verb out of a noun, though there is a perfectly good verb available, sometimes nearly related to the noun; but we hope that no lawyer will draft a document in which reference is made to money being "loaned" or to a house being "rented." Indeed, if the above-mentioned will be used as a precedent, we may some day hear of some bewildered legatee being referred from Somerset House to Bow-street Police Court in consequence of his asking to see a probation officer.

Contributory Negligence: Power of a Judge to Direct a Non-suit.

AFTER an extremely shaky beginning the law on this subject seems now to have reached a state of stability. A minority judgment, even though it be in the House of Lords, is not a very convincing foundation for a legal principle, but when that judgment has been approved, admittedly *obiter*, in another judgment in the House of Lords, security is apparently obtained, albeit by curious means.

The starting point is *Dublin Wicklow and Wexford Railway Co.* v. *Slattery* (1878), 3 App. Cas. 1155. The deceased crossed a railway line behind a stationary train, so that his view was obscured, and was killed by a down train, which according to some witnesses had not whistled. The defendant company pleaded contributory negligence, but the jury found for the widow. The question in the House of Lords was whether a verdict could be entered for the defendants, and there was an acute division of opinion. Lords Hatherley, Coleridge and Blackburn held that it could, while Lord Cairns, L.C., Lords Penzance, O'Hagan, Selborne and Gordon held that it could not. The views of the minority were summed up in one sentence by Lord Hatherley, at p. 1169, where he says: "But if such contributory negligence be admitted by the plaintiff or be proved by the plaintiff's witnesses while establishing negligence against the defendants, I do not think there is anything left for the jury to decide, there being no contest of fact," and such, in his opinion, was the case before him. Lord Cairns agreed that there might be cases in which this might be done, but did not agree that the case they were considering was one of them. The last four lords may perhaps have meant to say the same thing, but the words they used seem to be intended rather to lay down a general principle than to decide one case on one set of facts. The argument which found favour with them was that the question of contributory negligence was one peculiarly within the province of the jury, and that to direct a non-suit on that ground was for the judge to usurp the functions of the jury. The appeal was accordingly dismissed.

Eight years later the House of Lords had before them the case of *Wakelin* v. *L.S.W.R.* (1886), 12 App. Cas. 41, in which a man was found dead at a level crossing, and there was evidence that the train had not whistled. The actual decision of the House was that the plaintiff could not recover because there was no connection between the negligence, if any, and the accident; but Lord Watson, admittedly *obiter*, discussed the question of onus. In so doing he picked on the sentence of Lord Hatherley's in *Slattery's Case*, which has been already quoted, for his approval (at p. 48).

Thus it comes about that it is Lord Hatherley's statement of the law which is now acted upon. This is illustrated by *Sharpe* v. *The Southern Railway* [1925] 2 K.B. 311, in which the plaintiff was a passenger going to Guildford. The train arrived there in daylight and the last carriage stopped short of the platform. A porter shouted to the occupants to keep their seats, but the plaintiff did not hear as he was asleep. He woke up to realise that he was at Guildford, and to notice the door of the carriage open and the other occupants gone. He got out in a hurry without looking to see what he was stepping on to, and fell five feet on to the permanent way, breaking his leg. The Court of Appeal held that the case ought to have been withdrawn from the jury, Bankes, L.J., at p. 316, saying there was no evidence on which the jury were justified in finding that the plaintiff was not negligent. Scrutton, L.J., at p. 317, further indorses the statement of Lord Hatherley, and Atkin, L.J., at p. 319, gives as a second reason that the plaintiff's evidence conclusively proved that the accident was caused by his own want of care.

This case was followed in *Baker* v. *Longhurst* (unreported), *Times*, 22nd June, 1932, in which the plaintiff, on a motor bicycle ran into an unlighted cart at night. It was held he could not recover because he was either going so fast that he could not pull up in his admitted range of vision or he was not looking where he was going.

The principle which these cases have established may be stated thus: If the plaintiff, though proving some act of negligence on the part of the defendant, admits negligence of his own of such a character that it must from its nature be the cause of the accident, the judge may withdraw the case from the jury. The facts must be such that a contrary finding by the jury would be upset as perverse. But, as Bowen, L.J., said in *Davey* v. *L.S.W.R.* (1883), 12 Q.B.D. 70, at p. 76: "If the facts which are admitted are capable of two equally possible views which reasonable people may take . . . it is the duty of the judge to let the jury decide between such conflicting views."

Sir Reginald Poole, B.A.

WE have pleasure in presenting with this issue a portrait of Sir Reginald Ward Edward Lane Poole, solicitor, senior partner in the firm of Messrs. Lewis & Lewis, of Ely-place, Holborn, who has been elected President of The Law Society for 1933-34.

Born in 1864, Sir Reginald is the son of the late Professor Reginald Stuart Poole, LL.D., who was Keeper of Coins and Medals at the British Museum. He was educated at Bedford School and London University, and served his articles with the first Sir George Lewis. He was admitted a solicitor in January, 1891, and became a member of the firm in 1894. In 1919 he was elected a member of the Council of The Law Society. Sir Reginald has also been a member of the Discipline Committee for some years, and has been one of its chairmen during the last few years. He received the honour of Knighthood in 1928. In 1929 he was a member of the Royal Commission on Police Powers and Procedure. He has taken an active interest in the affairs of the Solicitors' Benevolent Association, of which he was chairman in 1923 and is at present a director.

Costs.

SOLICITOR ACTING AS EXECUTOR.

IT is no uncommon thing for a solicitor to be appointed the executor of a Will, and the question then arises as to how far he is entitled to charge the usual professional fees for the services which he renders in administering the estate. The rule was aptly stated in the case of *Broughton* v. *Broughton*, 5 De G.M. & G., at p. 164, where Lord Cranworth, L.C., observed: "the rule is that no one who has a duty to perform shall place himself in a situation to have his interests conflicting with that duty; and a case for the application of that rule is that of a trustee doing acts which he might employ others to perform, and taking payment in some way for doing them."

The solicitor acting in the capacity of executor or trustee may, however, charge against the funds which he is administering all necessary and proper out-of-pocket expenses, although the question of what are proper expenses is sometimes a matter of doubt. Thus, in the case of a solicitor-trustee who employs a London agent, he may only charge the actual payment to the agent and not the agent's full bill: see *Barber, Burgess* v. *Vinicome*, 34 C.D. 78. An attempt was made in *Re Gallard* [1896] 1 Q.B. 68, a bankruptcy case in which the solicitor was not entitled to profit costs, to charge against the estate a proportion of the solicitor's office expenses, but it was held that this was not permissible, and there is no doubt but that the same rule will apply in other instances, such as the one now under review, where the solicitor is not entitled to charge profit costs.

It makes no difference that the firm of which the solicitor-executor is a partner acts as professional adviser to the estate, and in this case also nothing beyond the actual out-of-pocket expenses may be charged: see *Lyon* v. *Baker*, 5 De G. & S. 622. On the other hand, a solicitor-executor may employ his partner to act, but there must be a definite agreement between the partners that the executor shall not benefit in any way by the profit costs charged: see *Black* v. *Carlon*, 30 L.J. Ch. 639.

This rule applies in connection with all business conducted by the solicitor-executor in relation to the estate, whether in the ordinary administration thereof, or in connection with an action arising out of it. There is this exception however. Where there are co-executors and one of them is a solicitor, the position is modified as to whether or not the costs arise out of an action. If they do then the solicitor may charge his proper fees in connection with the action, except that he must delete so much of his bill as is incurred by reason of his being a party to the action: see *Cradock* v. *Piper*, 1 Mac. & G. 664, and *Barber, Burgess* v. *Vinicome*, *supra*. This exception arises from the fact that whilst a solicitor who is a trustee must, in the absence of specific directions, exercise his professional skill gratuitously in the performance of his duties, he is not bound to act as solicitor for his co-executor or trustee. Where the professional work of a solicitor who is a co-executor arises in connection with some business not in an action he may not, however, charge any profit costs at all. The position seems to be rather anomalous, and was so described by Cotton, L.J., in *Corsellis, Lawton* v. *Elwes*, 34 C.D., at p. 682, but such it is.

It may be noted here that some of the principles laid down in *Cradock* v. *Piper*, *supra*, were questioned in the *Broughton Case*, to which reference was made earlier, but the rules were followed in subsequent cases: see in particular *Corsellis, Lawton* v. *Elwes*, 34 C.D. 675.

The solicitor-executor not only cannot charge his own profit costs against the estate, but he must also pay into the estate the amount of any profit costs received by him from lessees in connection with leases of the estate property: see *Corsellis, Lawton* v. *Elwes*, *supra*. The real basis of this rule is that the costs of the solicitor, acting for himself as lessor, are by custom paid by the lessee, but this fact does not alter the position that the costs really arise out of the estate and result therefore in a profit from work done on behalf of the estate, notwithstanding that the fees themselves are paid by a third party.

This last-mentioned case would appear to overrule the decision in that of *Whitney* v. *Smith*, L.R. 4 Ch. 513, where it was held that a solicitor-trustee who lent trust moneys on the security of a mortgage and charged the whole of his fees to the mortgagor was entitled to retain the fees on the ground that they did not properly arise out of the trust estate.

Following the decision in the *Corsellis Case*, *supra*, it seems that the solicitor-executor who has no power to charge professional fees must bring into account all sums received by him by way of profit which arises out of the estate, and one instance is the stockbrokers' commission which is frequently shared with the solicitor; another being the agents' commission in respect of insurances effected on estate property.

It is proposed to deal in the next article with the case of a solicitor-executor who is empowered by the terms of the Will to charge his professional fees against the estate.

INCORPORATED ACCOUNTANTS STUDENTS SOCIETY OF LONDON AND DISTRICT.

The first meeting of the Autumn Session will be held at Incorporated Accountants' Hall, Victoria Embankment, W.C. (opposite Temple Station, District Railway), on Tuesday, 3rd October, at 6.15 p.m. (following the President's reception at 5 p.m.), when a lecture will be delivered by Mr. A. S. Wade, City Editor of *The Evening Standard*, on "The City Editor's Weekly Round." The chair will be taken by Sir Stephen Killik (President of the Society).

Company Law and Practice.

Dividends and Bonuses.

Dividends are familiar conceptions to many persons, laymen as well as lawyers; the same may be said of bonuses, but not everybody may realise that there is a good deal of abstruse learning on the point. Let me say at once that I do not propose to deal now with the questions which arise in connection with the funds out of which dividends may be paid: a dividend may not be paid out of capital, and what is capital for that purpose I do not intend to attempt to elucidate on this occasion, as it is a subject of great difficulty and complication. Perhaps, however, I may be allowed to say this, that the decision in *Ammonia Soda Company* v. *Chamberlain* [1918] 1 Ch. 266, to the effect that the profits of any particular year may be distributed as dividend without providing for losses of previous years (this ought to be somewhat qualified, but the generalisation will do for this present purpose) requires serious consideration by the legislature, if only from the point of view of those to whom limited companies incur indebtedness.

As to the mode of payment of dividends, it is not uncommon to find a provision in articles of association that dividends may be distributed in specie: perhaps such a provision is not often used, but it may sometimes come in useful, particularly in small private companies. In the absence of a provision of this kind, a shareholder is entitled to require that his dividends be paid to him in cash: *Wood* v. *Odessa Waterworks Co.*, 42 Ch. D. 636. One form of distribution in specie might be a distribution of shares or debentures in another company which formed part of the assets of the company paying the dividend; such an operation must not be confused with a distribution of capitalised profits which have been applied in paying up shares or debentures in the company itself.

The capitalisation of profits must, therefore, engage our attention for a little space. This method of dealing with surplus profits is a convenient one, and frequently put into operation, but the first point to be borne in mind when considering it is that it can only be done if the company's articles permit of it. Whether by accident or design, Table A does not do so, and it is therefore very desirable, when adopting Table A, to modify it by adding a provision allowing the capitalisation of undivided profits, and also providing for the sums capitalised being utilised in paying up shares or debentures or debenture stock.

The capitalisation of profits in this manner, when coupled with the application of the capitalised sums in payment for shares or debentures, has one great advantage from the point of view of the shareholder who receives the bonus—namely, that the operation, if properly carried out, does not impose upon the recipient any liability to sur-tax in respect of the bonus. If the bonus is paid in cash there is very good ground for saying that the cash becomes income in the hands of the shareholder, and liable to assessment for sur-tax. I will start at what may be thought to be the wrong end—the case of *Whitmore* v. *The Commissioners of Inland Revenue*, 10 Tax Cases 645, a case which is, unfortunately, not reported elsewhere, so far as I can discover. I say this, not because the report there is anything other than wholly admirable—it is a thoroughly good and illuminating report—but because these reports are less accessible than the more usual ones, and, as the decision takes the matter a step further than the much more advertised one of *Commissioners of Inland Revenue* v. *Fisher's Executors* [1926] A.C. 395, it is important that it should be widely known.

In *Whitmore's Case* the company concerned had very large sums standing to the credit of profit and loss account, and considerable reserves, and a very considerable capitalisation of profits was carried out, under which there were to be paid up out of the capitalisation debentures to an amount of over £150,000. All the ordinary shares of the company were in

one hand, and the debentures were therefore issued to the one ordinary shareholder. Now, what is particularly interesting in this case is the form of the debentures; they carried interest only out of profits, and were repayable by the company on one month's notice. In fact, the notice was never given, but, by arrangement between the company and the debenture-holder, the debentures were paid off within a very short time (less than two months) of their issue. The Crown assessed the shareholder to super-tax in respect of these debentures, a view which the Special Commissioners took to be right, but Rowlatt, J., discharged the assessment, thus giving concrete shape to the fears expressed by Lord Sumner on the last page of the report of *Fisher's Executors Case*, to which I will refer in a moment. The Crown attempted to distinguish *Whitmore's Case* from *Fisher's*, and the well-known case of *Commissioners of Inland Revenue* v. *Blott* [1921] A.C. 171; but Rowlatt, J., took the view that the company was entitled, as against the whole world, to decide matters of internal management of this sort (following the cases referred to above), and that accordingly this was capital as against the revenue.

Now comes *Fisher's Case*. The facts were of a nature similar to those in *Whitmore's Case*, though debenture stock and not debentures were issued, but where the difference seems to come in is in the fact that in *Fisher's Case* the company was unable to redeem the debenture stock for a period of more than six years after the date of its creation, and the assessment to super-tax was, of course, in respect of a year long prior to the earliest possible date on which the company could redeem the stock. Logically, it may be that this is a distinction without a difference, and, indeed, from Lord Sumner's observations, and from the result of *Whitmore's Case*, this may be so, but in cases of this kind it is particularly necessary to judge each case on its own particular facts, especially in view of the principle, so frequently being applied in tax cases, that it is the substance, and not the form, of the transaction which is to be looked at.

Fisher's Case, again working backwards, was sought to be distinguished from *Blott's Case* on the ground that *Blott's Case* referred to shares, but that the debenture stock in *Fisher's Case* represented quite a different result, because the debenture stock created a debt, which of course the mere issue of a share does not, and also a charge on the company's assets. Viscount Cave, L.C., deals with this by saying that the stockholders had no power to call in the stock, which gave them no present right to receive any part of the company's assets—it is true, he says, that debenture stock creates a debt, but the debt in *Fisher's Case* was not presently payable and might never become payable while the company was in existence. This, however, does not seem, with all respect to Lord Cave, to be a complete answer, in the light of *Whitmore's Case*. Lord Sumner's observation seems to be the correct one, that "The real application of the principle is to assets, from which any further character of divisible profits has been taken away, whatever may be the substituted character thereafter impressed upon them. If so, that principle applies here."

Lord Sumner regrets the necessity for coming to the conclusion to which he does come and utters these words of warning at the close of his speech: "If any part of the dividends of the year can be so converted, I presume all could be, nor, if a six years' currency of the debenture stock is permissible, do I see why six weeks' should be less so. How far this position is tolerable is, however, a matter for the legislature. It is not material here, but I think it may well be doubted whether, in the long run, it should be permissible for a limited liability company to create obligations, for which no consideration has been given to it, or to increase its paid up share capital out of its own assets without imposing on the holders of this additional share capital the usual obligations which are involved in the subscription of shares." The speculation in the first part of this passage is entirely justified by the decision in *Whitmore's Case*. As to the rest of the passage, its meaning is not very clear. In the cases in question consideration has apparently been given to the company; the shareholders have refrained from taking out of the company's coffers something to which they were entitled, and the company's assets are thereby swollen to the extent of the amount retained.

What is the difference between dividends being paid to the shareholder in cash and being returned by him to the company, and the capitalisation of profits and application of the capitalised sums in payment up of shares? In the latter case the company may not actually have available the cash to pay the capitalised sums, but it must have the assets, and cannot properly capitalise unless it has. If it does do so, however, it seems plainly to have got consideration from the shareholder. What, again, does Lord Sumner mean when he refers to "the usual obligations which are involved in the subscription of shares"? Does he mean an obligation to pay in cash? It is by no means necessary to pay for shares in cash—all kinds of considerations can be used for paying up shares, though if cash is not paid, a contract has to be delivered for registration. Does he mean an obligation to give consideration of some kind for the shares? It seems evident, as I have endeavoured to show above, that there is consideration. If he means something else I must frankly admit that I do not know what it is.

Now for *Blott's Case: Commissioners of Inland Revenue* v. *Blott* [1921] 2 A.C. 171. Here the company had in hand undivided profits, and a resolution was passed in general meeting that a bonus at a particular rate, free of income tax, on each of the issued ordinary shares of the company be declared and that the directors be authorised to satisfy the bonus by distribution rateably of certain unissued preference shares. An oft-quoted passage from Lord Haldane's speech in this case will suffice to close this article: "I think," says his lordship at p. 184, "that it is, as a matter of principle, within the power of an ordinary joint stock company with articles such as those in the case before us to determine conclusively against the whole world whether it will withhold profits it has accumulated from distribution to its shareholders as income, and as an alternative not distribute them at all, but apply them in paying up capital sums which shareholders electing to take up unissued shares would otherwise have to contribute. If this is done the money so applied is capital and never becomes profits in the hands of the shareholders at all."

A Conveyancer's Diary.

Wills speaking from Testator's Death. Wills Act, 1837, s. 24.

I WROTE a fortnight ago upon the subject of the doctrine of the ademption of legacies by portions or, as it is sometimes called, the rule against double portions.

Closely allied to that subject is the question of the date from which, as it is said, a will "speaks."

We need go no further back than the Wills Act, 1837, which provides in s. 24:—

> "Every will shall be construed, with reference to the real and personal estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator unless a contrary intention shall appear by the will."

Notwithstanding the very definite language used in this section, the courts have constantly for purposes of construction treated a will as speaking from the date when it was made, and the words "unless a contrary intention shall appear by the will" have not been applied literally as extrinsic evidence is often admitted to assist in construction.

The attitude adopted by the courts was put plainly by Sir W. Page-Wood, V. C., in *Re Gibson: Mathews* v. *Foulsham* (1866), L.R. 2 Eq. 669.

The facts in that case were that a testator, being at the time of making his will possessed of £1,000 guaranteed stock in the N. B. Railway, bequeathed to A " my one thousand N. B. Railway preference shares." After making his will the testator sold his N. B. guaranteed stock and died possessed of shares and stock in the same company, acquired by several successive purchases, exceeding the amount bequeathed to A.

It was held that the bequest being of a specific thing which had been adeemed and was not in the testator's possession at the time of his death, a " contrary intention " so as to exclude the operation of s. 24 of the Wills Act sufficiently appeared upon the will, and that A was not entitled to have his legacy satisfied out of the N. B. Railway shares and stock in the testator's possession at the time of his death.

The learned vice-chancellor said : " I adhere to the opinion that I have before expressed as to the application of s. 24 of the Wills Act, that when you find a mere specific thing, incapable of increase or diminution, in existence at the date of the will, but not in existence at the time of the testator's death, there is sufficient indication upon the will of the 'contrary intention' to which s. 24 refers to prevent the operation of the rule which makes the will speak from the death of the testator. Suppose a man to have at the date of his will a picture of the Holy Family by some inferior artist and to give by his will 'my Holy Family.' He afterwards disposes of this picture and subsequently acquires by purchase or gift a very much better one on the same subject, painted by an eminent artist. Would it not be a monstrous construction to hold that the picture existing in the testator's possession at the time of his death would pass ? "

The learned vice-chancellor answered the question which he put affirmatively. I confess that I should have said " No " to it. The testator might have altered his will, and I should have thought that as he did not do so, he intended that the picture answering the description of " My Holy Family " which he had at his death was to go to the legatee. Suppose that in that case the attention of the testator had been drawn to the provisions of his will with regard to the picture, and he did in fact wish the legatee to have the picture. Would he not have been justified in saying that as his will was by statute made to speak from his death there was no occasion to alter it ?

It will be noticed that the section requires that the contrary intention shall appear " by the will." The courts have certainly placed a queer construction upon those words. In the case of *Re Gibson* there was nothing appearing " by the will " showing a " contrary intention " which was only to be found by the introduction of evidence outside the will.

Re Portal and Lamb (1885), 30 Ch. D. 50, was a case in the Court of Appeal where the question was somewhat different, because there the court had to decide whether certain land passed under a specific devise or under a general residuary devise, and Lindley, L.J., expressed the view that s. 24 of the Wills Act left open the question whether a particular property passed by a specific or a residuary devise.

In that case A devised to G for life " my cottage and all my land at S," subject to the stipulation (amongst others) that the plantations, heather and furze be all preserved " in their present state," and the testator devised " all other my freehold manor, messuages, lands and real estate whatsoever and wheresoever " to trustees upon trust for sale. At the date of his will the testator had a small cottage with twenty-two acres of rough land with it and he subsequently contracted to purchase from G a house of considerable size with gardens and land comprising ten acres closely adjoining the cottage and land. The contract was not completed at the date of his death.

It was held by the Court of Appeal that a contrary intention within the meaning of s. 24 of the Wills Act was not shown with sufficient clearness, but construing the will as if it had been made on the day of the testator's death, having regard to the circumstances at that date and to the residuary devise, the specific devise more aptly referred to the cottage and rough land and did not carry the after-acquired property.

It is plain that in this case the Court of Appeal looked for some contrary intention appearing by the will, and not finding any, would have upheld the judgment of Kay, J., that the after-acquired property did pass under the specific devise had it not been for the fact that the description which the testator used in the latter was not on the true construction of the language employed apt to include the property acquired by the testator after the date of the will. I may add that Lindley, L.J., said that the section " does not say that we are to construe whatever a man says in his will as if it were made on the day of his death."

Generally speaking, it seems that where there is a specific gift the will must be construed as referring to the specific thing which the testator had at the date of his will and not to something answering the description but acquired afterwards.

Thus, in *Re Sykes* [1927] 1 Ch. 364, it was held that a bequest of " my piano " meant the particular piano which the testatrix owned at the date of her will and not one which she had afterwards acquired.

It has been held, however, that where the description in a will is precise a mere alteration in the character of the property made after the date of the will does not show a " contrary intention."

Re Evans: Evans v. *Powell* [1909] 1 Ch. 784, was a case of that kind.

A testator by his will dated in 1901 made the following devise to his wife for life with remainder to his daughter : " House and effects known as Cross Villa situated in T." At the date of his will he was possessed of half an acre of ground with a house upon it, the premises being known as " Cross Villa." In 1906 upon a part of the ground which he separated from the rest by a hedge he erected two semi-detached dwelling-houses which he named " Ashgrove Villas." He died in 1908.

Joyce, J., considered that the expression " known as Cross Villa " had the same meaning as " now known as Cross Villa," and that the whole of the property passed under the devise.

It may be said, however, in reference to that case, that the alternative construction would have resulted in " Ashgrove Villas " being undisposed of by the will, and the court is always inclined to avoid a construction the effect of which would be to create an intestacy.

It is also to be noted that the learned judge laid it down that " if a testator makes a will devising his freehold house in Cavendish Square and then sells it, purchasing another in the same square, the house subsequently purchased would not pass by the devise." That appears to be so although no contrary intention appears by the will.

SCOTTISH RENT RESTRICTIONS REGULATIONS.

Regulations entitled the Rent Restrictions (Form of Notices) Regulations (Scotland), 1933, have been made by the Secretary of State for Scotland under s. 14 (1), as read with s. 15 of the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933. The Regulations, which, it is understood, will shortly be placed on sale by the Stationery Office, prescribe :—(1) The form of notice of increase of rent which will require to be used in future ; (2) The form of notice which as from 30th November requires to be inserted in every rent book or similar document in respect of a house to which the Rent and Mortgage Interest Acts apply. It is desired to draw the attention of tenants particularly to the requirements of s. 4 (4) of the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, with regard to sub-letting.

Landlord and Tenant Notebook.

Deductions from Rent: I. Statutory.

THE circumstances under which a tenant is entitled to withhold rent, if reviewed at length, would involve a very detailed examination of a very large number of authorities, and this cannot be undertaken in the "Notebook." The history of the struggle between the legislator, with his "notwithstanding any agreement to the contrary," and the conveyancer with "free of all deductions," has been a protracted one; and even an account of that contest would not cover the whole of the ground, for the law relating to implied request has been very fully explored and exploited in connection with deductions from rent.

The commonest example of irrecoverable deduction is, of course, that of income tax. I think it is fair to say that the law on this subject is not now difficult to ascertain. The rules contained in No. VIII of Sched. A, Sched. I of the Income Tax Act, 1918, as amended in one respect by the Finance Act, 1926, s. 26, present no difficulties to a lawyer, and the explanatory notes issued by the Inland Revenue as well as those subjoined to their receipt are calculated to make the position clear to the more intelligent taxpayer. Nevertheless, some points have arisen and been decided by High Court, Court of Appeal, and House of Lords. Some of the decisions show that the law is much the same as it was held to be before 1918, under the older statutes and authorities. One case, however, *North London and General Properties Co.* v. *Moy* [1918] 2 K.B. 439, C.A., possibly showed Parliament that it had not effected what it intended to effect, for it is on this point that the rules in Sched. A, VIII, were amended, so that the authority cited is no longer law, and a tenant deducting income tax from rent is obliged to produce the Inland Revenue receipt as a condition of so deducting.

Other decisions relate to the meaning of "rent" and of "next payment." It was held in *Drughorn* v. *Moore* [1924] A.C. 53, that a covenant by the tenant to put premises in repair in consideration of no rent being charged during the first year—so ran the agreement for a lease, but the lease itself carried out this covenant by reserving a peppercorn—left the tenant with nothing from which to deduct. This seems fairly obvious, but the tenant had won at first instance, and his case was argued not only on the words of documents and statute, but also on that of implied covenant by lessor to refund the tax. This involved a proposition that the lessor was the person liable to the revenue, and this proposition their lordships refused to entertain. It is, of course, an attractive one, particularly when one remembers that tenants were first made liable for tax on land and authorised to deduct payments from rent in Commonwealth times, when the absence abroad of many landlords embarrassed the Treasury: but it is clear that present legislation makes the tenant the person of incidence.

The old question of lost opportunities came up in *Hill* v. *Kirshenstein* [1920] 3 K.B. 556, C.A. The defendant had paid and not deducted tax since 1901, and when he found out about it withheld the whole of the rent. The words "next payment of rent" decided the issue in the plaintiff's favour. A case in which tenant's ignorance of law made for landlord's bliss in fact.

But if the tenant does not pay his rent when he should he may deduct tax paid from rent when he does pay it, as was held in *Kirk* v. *Cunnington* [1921] 3 K.B. 637. The action was against a protected tenant for possession and arrears of rent, and the defendant had paid the amount claimed into court, less five sums representing Sched. A income tax. The county court decided the question in the landlord's favour, but was reversed by the Divisional Court.

The notion that rent was, for income tax purposes, an annual payment *ejusdem generis* with annuities, interest, etc., was exploded by *Rossdale* v. *Fryer* [1922] 2 K.B. 303, C.A., in which a tenant holding at more than the assessment was held not to be entitled to deduct an amount calculated on the rent he paid.

The rule of law under which any one who has been compelled or threatened to be compelled to pay someone else's debt may sue the debtor on a very artificially implied request has been profusely illustrated by landlord and tenant litigation. The Law of Distress Amendment Act, 1908, now provides a simple procedure by which superior landlords may collect unpaid rent from sub-tenants and lodgers, and expressly enacts that payment made in consequence of the specified notice operates to discharge *pro tanto* the rent due to the (mesne) tenant. The object of the statute is, of course, to confer privilege from distress on sub-tenants and lodgers, in exchange for which the landlord is given the right of collecting his rent from them. He can do so by a notice setting forth the position, which operates to transfer to him the right to recover, receive and give a discharge for the rent—this, of course, confers a right of deduction. Another section entitles an under-tenant, when a distress is levied, to serve a notice on the bailiff or landlord setting forth *his* position and undertaking to pay his rent to the superior landlord in satisfaction of that due from the mesne tenant, and this section expressly authorises deduction of the amount from rent payable to the immediate landlord.

Local authorities are in some cases entitled to collect from tenants amounts owing from landlords, and the tenants are by the same enactments given the right to deduct the amounts from rent. The Rating and Valuation Act, 1925, s. 15 (1), confers this right on rating authorities in respect of rates where the landlord is rated; but the right is postponed to that of any superior landlord who may have got in a notice under the Law of Distress Amendment Act first. While the Housing Act, 1930, s. 18 (5), after giving local authorities the option to collect by instalments amounts expended in repairing houses unfit for habitation from either owner or occupier, goes on to enact that if they are collected from the latter he may deduct the amounts from rent.

Our County Court Letter.

OFFICIAL RECEIVER AS LIQUIDATOR.

IN the recent case of *In re Thomas Whittingham, Ltd.*, at Hull County Court, an application was made for an order for the appointment as liquidator (in place of the Official Receiver) of an incorporated accountant, in pursuance of a resolution of the creditors. The evidence was that (1) on the 15th May, the High Court made an order (on the petition of a creditor for £196 14s. 6d.) that the company be wound up, and that the Official Receiver be provisional liquidator; (2) on the 3rd July, four creditors (whose claims amounted to £636) supported the resolution, but the petitioning creditor and two others (whose claims amounted to £396) opposed the resolution; (3) the liabilities were £1,056, and the only assets were book debts to the value of £1,200, of which £500 was doubtful. The applicants' case was the Official Receiver might not realise the book debts profitably, whereas the creditors' nominee (having been the auditor for many years) would be more qualified to do so. The Official Receiver reported that (*a*) one of the supporting creditors was a contributor of about £3,900 of the total share capital, viz., £4,000; (*b*) he had once owed the company £1,736, but (having granted the company a twenty-one years' lease of its premises) he was then credited with £1,700; (*c*) the lease was afterwards re-assigned to him for £200, i.e., at a loss to the company of £1,500; (*d*) it might be necessary to inquire into this transaction, and also whether a bonus of £350 had been rightly voted to the same creditor, and another £200 to his brother—also a supporting creditor; (*e*) the creditors' nominee

was himself a preferential creditor for £50, and his proof might require investigation. His Honour Judge Beazley remarked that there was no reflection upon the proposed liquidator, but the proper person to make the necessary inquiries was the Official Receiver, who was not likely to dispose of the assets on unfavourable terms. The order, therefore, was that the resolution of the creditors be not carried into effect, and the application was accordingly dismissed. The amounts involved appear to constitute an argument for the extension of county court jurisdiction in common law matters.

THE RIGHTS AND LIABILITIES OF BUILDING SOCIETIES.

In *Leeson* v. *Halifax Building Society*, recently heard at Lincoln County Court, the claim was for £100 as damages for breach of trust. The plaintiff's case was that (1) in 1926 he had bought a house (on behalf of Provincial Garden Cities, Limited) for £500, of which £396 was advanced by the defendants on mortgage, (2) in 1931 and 1932 he tried to sell the house by auction, but there was no sale, and the defendants went into possession in 1933, (3) they then sold the house for £342 10s., and (after deducting £301 11s. 5d. under the mortgage, plus expenses) they tendered £7 4s. 2d. to the plaintiff, (4) this amount was refused, as the house could have been sold for £400. The latter allegation was denied by the defendants, upon whose behalf the purchaser's brother stated that he would not have given more than £325 for the house, upon which £59 5s. 2d. had since been spent on repairs. His Honour Judge Langman held that (*a*) the plaintiff had been treated with the utmost consideration, as there was a conflict of evidence as to whether he had fixed even his own reserve price at only £380 or £330, (*b*) the defendants (as mortgagees) had exercised their power of sale in good faith and without fraud. Judgment was, therefore, given for the defendants, with costs.

Land and Estate Topics.

By J. A. MORAN.

The Autumn season for the disposal of real property at auction has made a promising start. There was a pronounced revival of activity at the London Auction Mart, and many important transactions have been reported from the provinces. More business was effected under the hammer, but whether values improved or not is difficult to determine. Of course there are "lots" that will sell at any time, but there are others that want a little special consideration before any liability is taken over.

As a general rule, the risks run by an investor in real estate are much fewer than those that follow in the wake of other securities, and that is why one naturally looks for a revival at a time when signs are not wanting to indicate the advent of an improved industrial era. Even the unwanted mansion appears to be exciting more interest than usual; and among the coming auctions is that of a large landed domain which was recently purchased in its entirety and is now to be offered in lots that fall in with the requirements of the tenants.

The private builder—fortunately for the public—has no longer any desire to erect a house in a hurry in order to obtain a quick return for its sale to someone in need of residential accommodation. Many of those who did not get into touch with the new order of things are now only too ready to accept suitable tenants at rents not much in excess of those that operated soon after the War. Even the offer of what appears, in print, to be an elaborate and highly ornamental habitation, for a small sum down, at something less than 10s. weekly, excites less interest than the one in respect of a house that claims to be cosy and comfortable, and can be had for a term at a reasonable rental. The tenant is comforted by the assurance that he knows exactly how he stands, and is not confronted with the possibilities, if not probabilities of complete or partial ownership. More likely than not he has exercised the privileges of a tenant all his working life and prefers to keep in the same old groove.

Mr. T. S. L. Wootton, a leading chartered surveyor and fellow of the Auctioneers' Institute is, evidently, no lover of the new mass-produced houses. Five pounds down and a small weekly deposit sounds alluring, but in his opinion the fact is overlooked that a contract which is entered into has to be maintained in good and bad times, and that rates are payable and outgoings for repairs of a substantial nature are likely to make their appearance uncomfortably early. Further, as he puts it, there is no landlord to "carry the baby" through the bad period. If the building societies which, with their large and idle funds, are only too anxious to lend on these properties, demanded a higher standard of material and workmanship, it would afford some protection, and the local authorities could also do much by supervision under their bye-laws.

The slum clearance crusade appears to be gathering strength; but it is likely to be long before we see any perceptible advance in the actual programme. Preliminaries take a good time, and a few cantankerous individuals, with a voice in the matter, can do much to retard progress. At this stage no one appears to know precisely the extent of the problem, although the Minister of Health is said to have in his mind the re-housing of half a million families within the next five or six years. There is not the slightest doubt that reduced building costs and cheap money have provided a very rare opportunity; and if a genuine attempt be not made to take the earliest advantage of the position there is likely to be a general outcry against a negligence that is bolstered up by fads and fancies that have no real justification.

Property owners are anxious to see slums removed; all they ask for is to be treated fairly and squarely when their possessions are compulsorily acquired.

Another floor has collapsed at an auction sale with the usual result—several people injured. Private houses were never meant for public gatherings, and the auctioneer who runs an unnecessary risk ought, at least, to be severely censured.

Every flat with its own garden! Seems incredible, but it happens to be a stern reality at Wembley. There, each of several newly finished blocks of flats, has its own garden. This result is achieved by arranging each block of six, ten or twelve flats in stepped tiers rising to the centre. The level roof of one flat becomes the garden of that on the next storey, while those on the ground floor have normal plots. This is certain to appeal to any town dweller whose only garden has been a window box.

In Lighter Vein.

The Week's Anniversary.

At one time it was not altogether rare for future judges to obtain practical acquaintance with the inside of a prison. One of these was James Montague, who went to Newgate in the course of the constitutional fracas which occurred over the decision of *Ashby* v. *White*. The House of Commons (that never-failing champion of English liberty) not only threw into gaol five Aylesbury men who had dared to sue the constable of their borough for wrongfully refusing to allow their votes, but also sent their legal advisers to keep them company when Habeas Corpus was applied for. Montague was among them. "Resolved that Mr. James Montague in pleading upon the return of the Habeas Corpus on the behalf of the prisoners committed by this House is guilty of a breach of the privilege of this House. Ordered that the said

Mr. James Montague be for the said breach of privilege taken into the custody of the serjeant-at-arms attending this House." He was released when the Queen solved the dilemma by proroguing Parliament. This was in 1705, and so close were prison bars to legal honours that in the same year he was knighted and took silk. In 1707, he was Solicitor-General, and from 1708 to 1710 Attorney-General. In 1714, he was raised to the Bench of the Court of Exchequer. In 1722, he was advanced to be Lord Chief Baron, an honour which he did not long enjoy, for he died on the 1st October, 1723.

IN THE NUDE.

The Recorder of London recently uttered the following notable warning: "Unfortunately nowadays there are societies and cults which try to preach the nude, but when they are brought to justice they will be incarcerated in His Majesty's prisons." These grave words fired a train of memory, and in due course, I found that earlier in the summer an American judge had had a few words to say on the same subject when a dancer paraded at the World's Fair at Chicago wearing nothing but a couple of fans. "Evil to him who evil thinks," he is reported to have said. "Some people would like to put pants on a horse. People were nude millions of years ago. The human body is a beautiful work of nature. Artists' models can't get a dime from me, but if somebody else wants to pay, that's their business. The case is dismissed." There are evidently two sides to the Atlantic, as to most other things. England, however, does not change much. One remembers how Sir Charles Sedley found himself in the dock for an escapade in Bow Street, "coming in open day into the balcony and showed his nakedness." Pepys says that the Chief Justice declared that it was for "such wicked wretches as he was that God's anger and judgments hung over us, calling him sirrah many times." However, "there being no law against him for it," he was bound over in the sum of £5,000 to be of good behaviour.

TRICK-PROOF.

His Honour Judge Konstam recently had occasion to declare at Shoreditch County Court that "it is no use trying to baffle me. Many people try, but the attempt never comes off." This confidence of domination, so reassuring a thing to find on the bench, probably reached its highest expression on the lips of the Irish judge who noticed a witness kissing his thumb instead of the book, thereby hoping to avoid the obligation of the oath. "You may think to deceive God, sir," he declared, "but you won't deceive me." Lord Guilford also seems to have been a trick-proof judge according to his biographer, Roger North. "There were some occasions of his justice whereupon he thought it necessary to reprehend sharply. As when counsel pretended solemnly to impose nonsense upon him, and when he had dealt plainly with them and yet they persisted, this was what he could not bear; and if he used them ill, it was what became him and what they deserved. And then his words made deep scratches; but still with salvo to his own dignity which he never exposed by impotent chiding." Evidently "hoodwinking a judge who is not overwise" is an old sport.

Notes of Cases.

Probate, Divorce and Admiralty Division.

Abraham *v.* Attorney-General.

Lord Merrivale, P. 28th July, 1933.

BRITISH NATIONALITY—LEGITIMACY PETITION—PRAYER FOR DECLARATION OF BRITISH NATIONALITY—PETITIONER JAPANESE BY BIRTH—SUBSEQUENT MARRIAGE OF BRITISH FATHER TO JAPANESE MOTHER—LEGITIMACY ACT, 1926 (16 & 17 GEO. 5, c. 60)—SUPREME COURT OF JUDICATURE (CONSOLIDATION) ACT, 1925 (15 & 16 GEO. 5, c. 49)—BRITISH NATIONALITY AND STATUS OF ALIENS ACTS, 1914, 1918 and 1922 (4 & 5 Geo. 5, c. 17; 8 & 9 Geo. 5, c. 38; 12 & 13 Geo. 5, c. 44).

This was a legitimacy petition which contained a prayer for a declaration of British nationality.

The petitioner, Bennie Abraham, was born at Kobe, in Japan, in 1893, his mother being a Japanese subject, not then married to his natural father, L. D. Abraham. The parents subsequently intermarried at Kobe in 1906, having had four children before marriage, of whom the petitioner was one. At the time of the birth of the petitioner and the subsequent marriage L. D. Abraham was a British subject domiciled in England. In 1927 L. D. Abraham died intestate in England, leaving estate of the value approximately of £12,000, to a share of which the petitioner would be entitled if he were declared legitimate. The other children consented to the making of the declaration of legitimacy, and on the facts the Court held that the petitioner was entitled to be declared legitimate as from 1st January, 1927, and so pronounced. The Attorney-General opposed the further application for a declaration of British nationality on the ground that it was untenable in connection with proceedings under the Legitimacy Act, 1926. Counsel for petitioner submitted that insomuch as the Legitimacy Act, 1926, conferred upon the petitioner the same rights as if he had been born in lawful wedlock, and his father was a British subject at all material times, the petitioner was entitled to the declaration sought. Counsel referred to the definition of a natural-born British subject contained in the British Nationality and Status of Aliens Act, 1914, as amended by the 1918 and 1922 Acts of the same title. Counsel on behalf of the Attorney-General submitted that the definition contained in the British Nationality Acts only applied to the status of persons born after 1914, and that until the Legitimacy Act, 1926, it would have been impossible for the petitioner, as the son of his mother, a Japanese subject, and as one who had no legal father, to claim that he was a British national. The Legitimacy Act, 1926, was never intended to deal with the status of aliens, and the petitioner's natural father could not for that purpose be regarded as his father in the full legal sense.

Lord MERRIVALE, P., in giving judgment respecting the prayer for a declaration of British nationality, said that the petitioner's submission was entirely contrary to the whole tenor of the Acts, which so jealously guarded the rights of British nationals, and with the simple intent of the Legitimacy Act, 1926.

COUNSEL: *T. Bucknill*, for the petitioner; *Wilfrid Lewis* and *G. K. Rose*, for the Attorney-General.

SOLICITORS: *Solomon, Staddon & Barnes; The Treasury Solicitor.*

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

TABLE OF CASES previously reported in current volume—Part II.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Occupation by Intending Purchaser—Action for Use and Occupation.

Q. 2825. On the 18th February, 1933, A entered into a contract which incorporated the General Conditions of 1925, for the sale of certain leasehold property to B, who agreed to purchase such property. The date fixed for completion was four weeks from the date of the contract, provided that certain road-making charges, which the ground landlord had undertaken to pay, had been paid and if not so paid then the day for completion was to be postponed until such payment had been made. Such charges were paid, as to part on the 28th April, and the balance on the 16th June last, by the ground landlord. On or about the 28th March, 1933, B requested A to lend him a key of the house (which was vacant) in order that he might measure up the house to enable him to obtain linoleum, carpets, etc. A loaned him a key, and B thereupon changed the locks on the doors of the house, and so prevented A from obtaining access thereto with the remaining keys. B has exercised rights of beneficial ownership over the property such as changing the locks and preventing A's access thereto, and cultivating the garden and altering the paths. B has not moved into the house and we understand the keys are in the possession of B's solicitors. The purchase is now ready for completion, and A in addition to the balance of the purchase money requires B to pay a sum of 15s. a week for use and occupation of the property from the date of his lending the key to B. B agreed eight weeks ago to pay £4 10s. being six weeks at 15s. per week, in respect of such use, but declines to pay anything further in respect of the subsequent eight weeks. We shall be glad of your opinion as to whether A can recover anything against B in respect of such use and occupation.

A. Although we cannot quote any direct authority, the opinion is given that B by excluding A from the exercise of any acts of ownership which he would have been entitled to exercise up to the 16th June has technically rendered himself liable to an action for use and occupation, but it is very doubtful whether the vendor can insist on payment before completion, as cl. 5 of the General Conditions only applies where "under the contract" the purchaser is authorised to take possession. We think the vendor should offer to complete subject to his right to claim for use and occupation.

Will—Construction—Successive Interests.

Q. 2826. An abstract of title which has been delivered to us commences with the will of a testator, who died in 1883. The will left testator's freehold property to his nephew A for life, with remainder to the use of *every* son of the said A born during testator's lifetime and his assigns for his life, with remainder to the use of the first and every other son of the same sons of the said A in tail male. The said A took, of course, as tenant for life, on the death of the testator, and died in 1920, and his eldest son, B, succeeded to the property, and by a vesting deed executed by the trustees on the 1st February, 1926, the trust estate was declared to be vested in the said B, in fee simple, upon the trusts of the testator's will. Your questioners would be glad to have an opinion as to whether, having regard to the use of the word "every" in the will, the said B was actually tenant for life, or whether all the sons of the said A who were born in the lifetime of the testator did not become jointly tenants for life.

A. Although the wording of the will is unhappy we think that the intention to create successive interests is sufficiently clear, as witness the words "for *his* life" and "*his* assigns," and the subsequent use of the words "the first and every other son." It is probable also that on further inspection the will may elsewhere reveal the intention to create successive interests. We therefore express the opinion that our subscribers may accept title from B as the sole tenant for life.

Husband and Wife—Pre-1926 Purchase as Joint Tenants—Death of Wife in 1924—Title of Husband—Estate Duty.

Q. 2827. In 1919 property was conveyed to A and B (husband and wife) as joint tenants in fee simple. B died in 1924. A has now agreed to sell the property. Is it necessary, in order to perfect his title, not only to prove the death of B, but must he also take out letters of administration to B's estate, in order to clear off possible liability as to estate duty? According to "Butterworth's Precedents, Supplement No. 6," p. 1015, it would appear that only the proof of death is necessary.

A. Only proof of the death is necessary to establish A's right by the *jus accrescendi*. Such estate duty as may be payable would be accounted for on a C.I account. A purchaser would require to see that any such claim was satisfied seeing that B died less than twelve years ago (F.A., 1894, s. 8 (2), and Customs and Inland Revenue Act, 1889, s. 12) and before 1926.

Sale of Land Subject to Dower.

Q. 2828. A died intestate on 18th May, 1925, leaving a son entitled as heir-at-law to certain land subject to the right of the deceased's widow to dower. It is now doubtful in whom the legal estate should be vested as tenant for life. The dower was not assigned to the widow by metes and bounds and s. 19 (1) of the Settled Land Act, 1925, would not therefore appear to apply. The following note from a precedent book states that "where the right to dower is not so assigned by metes and bounds, a purchaser from the heir should see that the widow joins in the conveyance to release her equitable interest" would seem to imply that the son is entitled to have the legal estate vested in him. No assent or other document has been executed since the death of the deceased, and your opinion as to what documents are necessary would be much appreciated.

A. Probably the best plan would be for the administrator to sell as such and then to settle with the heir and widow on terms agreed by them. The purchaser, if the conveyance recited that there had been no previous conveyance or assent, would get a good title. Strictly the administrator ought not to sell except for the purpose of administration, but the purchaser would get a clear title without proof of heirship. It is assumed the widow is agreeable to a sale. Another way is for the administrator (if not the heir) to assent to the vesting in the heir subject to the widow's right to dower, and for the heir and widow to join in selling, the widow releasing her right to dower for an agreed sum, or without any assent for the heir and widow to convey and the administrator (presumably one of them) to convey the legal estate by the same deed. If the widow is averse to selling, the only way is for the heir having had the legal estate to create a settlement with two trustees approved by the court, or a trust corporation, under s. 21 of S.L.A., 1925, or a trust for sale under s. 2 (2) of L.P.A., 1925, as amended by the Act of 1926.

THE LAW SOCIETY AT OXFORD.

ANNUAL PROVINCIAL MEETING.

[By our Special Representative.]

The Forty-ninth Provincial Meeting of The Law Society was held at Oxford, from the 25th to the 28th of September, under the presidency of Sir Reginald Poole. The following members of Council were present: Mr. E. E. Bird (London), Mr. H. R. Blaker (Henley-on-Thames), Mr. P. D. Botterell, C.B.E. (London), Mr. G. D. Colclough (London), Mr. W. A. Coleman (Leamington Spa), Mr. G. A. Collins (London), Mr. F. J. F. Curtis (Leeds), Sir Robert Dibdin (London), Mr. H. A. Dowson (Nottingham), Mr. B. H. Drake, C.B.E. (London), Mr. D. T. Garrett (London), Mr. W. W. Gibson (Newcastle-upon-Tyne), Mr. W. A. Gillett (London), Sir Roger Gregory (London), Mr. H. C. Haldane (London), The Right Hon. Sir Dennis Herbert, K.B.E., M.P. (London), Mr. A. M. Ingledew (Cardiff), Mr. P. R. Longmore, O.B.E. (Hertford), Mr. W. E. M. Mainprice (Manchester), Sir Philip Martineau (London), Mr. C. G. May (London), Mr. A. C. Morgan (London), Mr. A. Morrison (Bedford), Mr. W. E. Mortimer (London), Sir Charles Morton (Liverpool), Mr. W. Rutley Mowll (Dover), Mr. R. A. Pinsent (Birmingham), Mr. G. S. Pott (London), Sir Harry Pritchard (London), Mr. H. H. Scott (Gloucester), Mr. H. N. Smart, C.M.G., O.B.E. (London), Mr. F. E. J. Smith (London), Mr. W. M. Woodhouse (London), with Mr. E. R. Cook, C.B.E. (Secretary, London).

On Monday evening the Mayor of Oxford, Mr. C. H. Brown, and the Mayoress received the President, Council and members at the Town Hall, where an excellent band provided appropriate music, and a special display of watercolours by Mr. William Turner attracted the contemplative. The President of the Berks, Bucks and Oxon Incorporated Law Society entertained members to tea in the Carfax Assembly Rooms at the conclusion of the first day's business and the Banquet was held at the Town Hall that evening. Ladies accompanying members were received by Mrs. W. B. Gamlen and Mrs. H. F. Galpin, and were admitted to the gallery to hear the speeches.

The Annual General Meeting of the Solicitors' Benevolent Association was held before the society's proceedings opened on the Wednesday morning and the afternoon of that day was left blank so that visitors might see something of the city and visit the many colleges and other interesting buildings to which the membership ticket admitted them. The Bodleian Library was closed for cleaning, but many members availed themselves of the opportunity of seeing the magnificent views from the Radcliffe Camera and the Sheldonian Theatre, and of inspecting the varied exhibits of the Ashmolean Museum and the University Museum.

The Warden and Fellows of All Souls held a reception that evening to enable members to meet the Vice-Chancellor and other dignitaries of the University. On Thursday, the Clarendon Press was visited by a very large and interested party, the usual regulations being waived to enable no less than 250 persons to see the workings of this great printing and publishing centre. At luncheon members were entertained at New College, Magdalen College and Christ Church, and the afternoon was devoted to a study of the motor works at Cowley, where tea was provided by Sir William Morris. The usual smoking concert and dance brought the meeting to a conclusion soon after midnight on Thursday.

The Business of the Meeting.

At 10.30 on Tuesday morning, members were welcomed at the Carfax Assembly Rooms by Mr. J. C. B. Gamlen, President of the Berks, Bucks and Oxon Incorporated Law Society, the hosts. Mr. Gamlen said that the society had not visited Oxford for thirty-two years; he hoped that another thirty-two years would not elapse before it came again. Despite the many hours of work and pleasure which would fill the time of the visitors, he hoped that they would be able to see something of Oxford. Wednesday afternoon had been deliberately left free to enable them to do as they liked.

He owed thanks to so many people that he could not possibly name them all, yet he must mention the President, Mr. H. R. Blaker and Mr. E. R. Cook for the extraordinary help and support he had received from them ever since Oxford had first been selected for the place of this year's meeting. He wished to thank also the Vice-Chancellor and the university and college authorities, and the Mayor and the city authorities. His co-secretary, Mr. Galpin, had forbidden him to thank him, but as Mr. Galpin was not in the room at the moment he would take advantage of his absence and acknowledge the great help he had received from him.

In the course of his address, the President mentioned that the ex-president, Dr. C. E. Barry, was not well enough to be present at the meeting; he had sent a telegram on the previous day. The President was sure that all members would join in wishing Dr. Barry a speedy recovery. (Applause.)

The papers selected by the Council to be read at this year's meeting covered a wide range of subjects, all of them of immediate interest. Mr. John Snow, of Oxford, dealt with the recent property legislation and made several valuable suggestions for its amendment. Mr. F. G. Jackson, of Leeds, elucidated some of the more bewildering tangles of the new Rent Act, and Mr. J. B. Leaver, of London and Blackpool, defended the building societies against the accusations, frequently made, that they divert clients to their own solicitors, advertise reduced mortgage and conveyance charges, and impose exorbitant rates of interest.

The Presidential Address.

Sir Reginald Poole in his presidential address said that as a graduate of the University he had chosen Oxford because he could think of no better place. It had given him and its other students what had probably been the happiest time of their lives, and to many members would recall wonderful memories. He paid a whole-hearted tribute to Dr. C. E. Barry, the retiring President, who must, he said, have spent more days and nights in London than in Bristol where he lived and practised, and had set a high standard of unselfish and constant work. Mr. Cook was the first of those upon whom the President must depend. Without Mr. Cook's experience, the Council would often be sadly at a loss. Their secretary combined a fine contempt for what was unworthy—a contempt which he had no hesitation in expressing, briefly and forcibly—with the kindest of hearts, and was a wise and sympathetic counsellor to those in trouble.

Among the matters to which Sir Reginald referred in a somewhat long but very interesting and topical address, were the cost of litigation, the quickening and improving of procedure and certain reforms which he advocated in the law itself. He described the wide extension of the procedure under Order XIV and a new provision concerning the payment of money into court. He expressed satisfaction with the section in the new Act which allows the court or judge to direct trial without a jury in all actions except the half-dozen familiar categories, saying that judges could be trusted to do their duty and to be sufficiently equipped with common sense to decide both the facts and the law, as well as to settle whether a jury might not be appropriate to any particular action. On the other hand, he did not welcome the shortening of the Long Vacation. It is true that this reform makes the Autumn Term a very long one, and it is not easy for the solicitor to get ready for heavy litigation in September, when his staff is much depleted. Sir Reginald recommended to the notice of all associates the practice of the Clerk of the Rules in the Divorce Court, who keeps in touch with solicitors on the telephone in order to adjust his list by their estimate of the probable length of their cases, so that parties and witnesses shall not be obliged to loiter about the courts unnecessarily. He also urged the limiting of appeals by abolishing the Divisional Court and combining the Court of Appeal with the House of Lords. As he said, if the single appeal is enough for a man convicted of murder, it should be enough in any other issue.

Income Tax.

The ever-present problem of income tax law was one of the subjects discussed most warmly at the meeting. The President set the ball rolling by referring to the incomprehensibility of the Finance Acts and urging that appeals from the Special Commissioners of Income Tax should go straight to the Court of Appeal. Mr. George Mallam opened his paper on the subject by saying that the most moderate man robbed on the highway of one-fourth of his possessions would express justifiable indignation, and suggested that the man equally

depleted in pocket by the State ought to be able at least to understand the process and to be satisfied that he was not being unfairly treated. His chief thesis was that there should be some safeguard for the small taxpayer—the man paying less than £300—who at present is practically obliged to accept the Revenue's assessment owing to the cost and delay involved in appeal. He suggested first of all that the Revenue should suspend action against the taxpayer for a year and express its intention clearly in the next Finance Act, rather than force litigation for which faulty legislation is primarily responsible. His second suggestion was that all matters affecting a tax of less than £300 should go to the county court, with power to hear a case *in camera*. Mr. R. A. Pinsent, however, feared that this decentralisation would mean many conflicting decisions. He cordially defended the Special Commissioners whom, he said, he had found actually humane as well as fair. The discussion on Mr. Mallam's paper revealed strong feelings on the subject, but Mr. Rutley Mowll, likewise, took up arms in defence of the Income Tax Commissioners, a body which, he declared, took great pains to find a fair decision.

How happy might many a citizen and judge become were Mr. W. C. S. Chapman to find a *modus operandi* for his suggestion that obscure statutes be referred back to Parliament or to the draftsmen for elucidation!

Husband and Wife.

The President in his address also asked why a husband should be liable for his wife's torts. This question is attracting increasing attention, and formed the subject of a paper by Mr. I. Kerman on Wednesday. As Mr. Kerman pointed out, it was only by a majority of three peers to two that the House of Lords retained this anomaly. When the unity of husband and wife was more a fact than a fiction, the husband was allowed to discourage his wife from wrong-doing by personal chastisement. Nowadays he is helpless, but is still penalised for actions over which he has no control. The restraint on anticipation, which was devised by Lord Thurlow as a check against the rapacity of the husband, now—said Mr. Kerman—operates as a complete protection against the wife's creditors. He suggested that a married woman's property could be more than adequately protected by the ordinary discretionary trust. There is no reason, he said, for the immunity of the married woman from bankruptcy, or for differentiating her from others over the question of committal on a judgment summons. The President suggested that tradespeople would cease to tempt women to extravagance if they knew they must recognise the wife and not the husband as their creditor. In the matter of divorce, while he does not favour the granting of divorce to the spouses of convicts or lunatics, Sir Reginald desires to see the law extended to release a spouse on proof of persistent and aggravated cruelty, or four years' wilful desertion. He condemned the reduction of the judges' salaries as ill-conceived and dangerous.

The Solicitors' Profession.

The sins of solicitors are a topic of perennial interest both to the sensational press and to the alleged sinners. The new Act gives them especial prominence. The President defended his colleagues against the charge of being responsible for the expenses of litigation; moreover, he upheld the profession against the imputations of dishonesty which have been unjustly cast upon it by the misconduct of a very few members. It cannot be said too often that the vast majority of solicitors are men who have won their clients' confidence by loyalty and the service of their true interests, and have deserved, as he rightly declared, the name of friend.

Mr. H. Nevil Smart, of London, in one of the most important and closely debated papers of the meeting, discussed the proposed Rules under the new Solicitors Act of 1933. He pointed out that the misdeeds of solicitors were given considerable prominence, being reported at every stage from the police court to the striking-off by the Discipline Committee or the public examination in bankruptcy; and that, as the President also noted, a fact which is hardly realised at all by the public, solicitors deal with the cases of over 5,000 poor persons every year for no reward of any kind. He considers that a solicitor, under r. 2, may keep as many clients' accounts as he likes, so long as each account bears the word "client." It will, he says, be permissible for the solicitor to pay into the client's account money received on account of costs, or to instruct a bank to split a cheque by crediting to the solicitor any part of it which represents costs. Although the Council will be empowered to inspect books, Mr. Smart was quite sure that no solicitor need be anxious, because the Council would never exercise this power except after the most careful consideration of a complaint.

Discutants brought up various points in this paper for criticism or condemnation. Mr. Barry O'Brien was convinced of the worthlessness of accounts, and both he and Mr. H. J. Saunders were alarmed lest Mr. Smart's advocacy of partnership as a safeguard against dishonesty might be taken as an official condemnation of single blessedness in the legal profession. The President hastened to reassure them.

Some Other Papers.

The law relating to electricity is increasingly important nowadays, and Mr. E. W. Hudson gave a clear survey of the statutes governing the supply of electricity and the powers of the Electricity Commissioners and the Central Electricity Board.

Mr. Hilary Jenkinson, a guest of the Society and the F. W. Maitland Lecturer in the University of Cambridge, gave a most interesting account of the work of the new British Records Association in preserving not only public records but the numberless private records, particularly title deeds, which would otherwise be faced with destruction at the hands of manufacturers of glue and of artistic letter-cases, calendars and lamp-shades. He showed the importance of private deeds to the historian, and appealed for recruits to this valuable association.

The President's Address.

Sir Reginald Ward Edward Lane Poole, B.A., the President, delivered the following address:—

It is my first and a very pleasant duty to thank our hosts, the Berks, Bucks and Oxfordshire Law Society, and their President, Mr. Gamlen, on behalf of those whom I represent, for their welcome and also for the promise of their generous hospitality during this Provincial Meeting.

I have also much pleasure in expressing our sense of gratitude to the Mayor of Oxford for last night's welcome and for his most enjoyable entertainment, and to couple an expression of the real pleasure it gives us to meet in such delightful surroundings. Oxford was my own personal choice, and I chose it because I could think of no better place. I trust that you will all agree with me and that your time here will be a happy one. I know that you will share with me sincere gratitude to our hosts.

It is now many years since we held this meeting in Oxford. To many of us this beautiful place recalls wonderful memories.

A University career means so much to many. It means learning and scholarship, it means lasting friendships, and during its passing the boy becomes the man in an atmosphere of great tradition probably unequalled in any other place in the world; and to those who have had the good fortune to have been students of this University it has given what has probably been the happiest time of their lives. To the authorities of this University you will, I know, join me in expressing our sense of obligation and gratitude for the privilege of being able to enjoy their hospitality amongst the historical surroundings of this great academy of learning.

Before proceeding with my address, I welcome the opportunity of saying a few words on the work of my predecessor, Mr. Charles Barry, in the office of President. As all of you know, Mr. Barry comes from Bristol, where he conducts an important business as its head. No one who has not had the experience can adequately judge of the difficulties that exist in combining public work with private practice, a difficulty enormously increased when your public work and your private practice are separated by over a hundred miles. I think I may safely say that if Sundays were excluded and a reasonable holiday allowed for in the summer, it would be ascertained that Mr. Barry had spent more days and nights in London than in Bristol during his term of office as President. His attention to the affairs of the Society has been unremitting. His attendance most assiduous. He has presided at every Council meeting, and his uniform courtesy and kindliness have won for him the respect of his profession and the affection of us members of the Council whom he has taught to become his intimate friends. Mr. Barry has set a high standard of unselfish and constant work, and if at the end of my term of office it can be said that my work for the profession has even approximated that of my predecessor, then I can only say that I shall be well content.

I can, however, achieve nothing single-handed. No business can be run by the chairman without the support of the directors and the shareholders.

There are others upon whom a great deal depends. First and foremost I would place Mr. Cook. Presidents and councillors come and go, but Mr. Cook remains in that position in which we have come to recognise him as quite indispensable. I have seen him in fair weather and in storm. He has been in the Society's service more than twenty-five years and this is the twentieth year of his secretaryship. His experience, his

SIR REGINALD POOLE, B.A.,
Solicitor,
President of The Law Society, 1933-34.

knowledge of routine work, his wide acquaintance with the law, and his eager devotion to duty have endeared him to us and convinced us of his true merit.

I am not understating Mr. Cook's importance when I say that without his experience we on the Council would be often sadly at a loss. Combined with a fine contempt for what is unworthy, a contempt which by-the-by he has no hesitation in expressing briefly and forcibly, he has the kindest of hearts, and to anyone who is exercised by trouble, he can show himself a wise and sympathetic counsellor. I should include in my expression of recognition of the staff, the Assistant Secretary, Mr. Jones, and all others at the offices at Chancery Lane. From what I have already seen of their work I know that from them I shall receive great help, and I look forward to their assistance to enable me to get through my year of office.

Although I see here to-day faces of many London friends, I am well ware that I am addressing a provincial meeting. These meetings are organised essentially in order that the Council and London solicitors who are privileged to attend them shall meet their country brethren. It is fitting, therefore, that I should at once say how much we in London count on the assistance and the support and indeed the advice of our country members. You represent numerically in our profession a proportion of two to one. That may be one reason for our paying particular attention to your interests. But it must be remembered that provincial solicitors come from great commercial centres, such as Liverpool, Manchester, Leeds, Bristol, Birmingham and Newcastle, commercial centres as important in the interests they represent as London itself, and that of necessity deference should be paid to the views of those who carry on their business in these places.

But apart from the great cities, there is a large number of our profession who work in what I may call country districts, and it is to them particularly that I would say a word. We on the Council recognise that their position differs largely from the position of those of our number who work in the great towns. They have to take responsibilities which others can shift on to the backs of counsel. They have to do work at a moment's notice unaided by any expert advice or assistance, and, indeed, like the country doctor, they are called upon to operate at a moment's notice without the intervention of a specialist. For them let me say at once I have the greatest possible respect, and let me add that in so far as the Council can assist them, or further their interests, it will be their anxiety to do so.

I dislike having to mention the matter, but it is better to say something about it, because it has from time to time been raised as a reproach to the Council that we have not dealt with it, and that is the subject of under-cutting, which I regret to say we know exists in some districts. I put it to you, what can the Council do? I have cast about for a remedy and can find none, unless the remedy be supplied by those who, in order to get business, are bidding one against the other in this process of under-cutting. So long as persons in our own profession choose to carry on the practice, I cannot see what the Council can do. It is a matter which depends upon the recognition of a standard of honour amongst neighbours, and that is a thing which must stand on its own merits and cannot be enforced by any rule or penalty. Having said this, I prefer to say no more on this point.

Let me conclude these preliminary remarks by stating that many matters of moment and importance which arise for our consideration are referred to country members before we as a Council decide what we should do for the best. Your Provincial Societies are well organised and are very live and active bodies, always taking great interest, not only in local matters, but in those which affect all of us, and many suggestions have come from the country which the Council have gladly accepted and acted on. The Honorary Secretary of your Associated Societies, Mr. Holmes, who is a member of our Council, is of great assistance to us in all matters which concern country practitioners, and is a loyal and strenuous advocate of the influential body he represents.

My experience in listening to many of the addresses given by my predecessors indicates that it has been their habit on this occasion to survey the work of the Council for the past year, to draw attention to matters which have transpired and are of interest to the Society, and to add any observations of their own upon topics which they think may interest not only solicitors but the general public.

I am going, therefore, to refer to a few matters which seem to me of importance which have engaged our attention during the last twelve months and have affected our profession. Then I propose to say something on such topics as the cost of litigation, the speeding up of procedure, and to offer a few entirely personal suggestions which I hope may be of interest.

With regard to any portion of my address which makes any suggestion, I wish it understood that I speak entirely personally, and that I am only putting my own opinions forward in, I hope, a spirit of diffident suggestion, and not in any conviction that I am necessarily right. I may add, however, that while I was writing this address I discovered that certain suggestions that I was going to make had already occurred to the minds of others of our body, and, indeed, that some proposals for the improvement of procedure had become a matter for consideration by the Legislature, and that rules of court had been amended and Bills in fact promoted in Parliament, with a view to making those proposals law.

Since we met last October, four members of the Council have retired, and the retirement of one of them has, I regret to say, been recently followed by his death.

Dr. Coley, who came from Birmingham, had been President, and no one had given more loyal or devoted service to the work of the Council, and more particularly to the cause of legal education, than he.

Mr. Farmer, Mr. Foster and Mr. Saw have also left us, and to them we tender our thanks for their services, and our regret that they have felt compelled to resign office.

I should like to take the opportunity offered by this public occasion to congratulate Sir Philip Martineau upon the honour of knighthood which His Majesty has been pleased to confer upon him, and to express our satisfaction that Sir Philip and another member of our body, Mr. Hubert Arthur Dowson, have been appointed to serve on what has come to be known as "Lord Hanworth's Committee," as to the work of which, and to the recommendations contained in its interim report, I shall have to refer later in the course of this address.

During the year, the work of the Poor Persons Committees has gone on, and has not been allowed to flag. Now that the Society has put its hand to this great philanthropic scheme, there is no doubt, judging by the results not only of the cases themselves, but also in view of the numbers of the cases which have been advised upon and conducted, that the scheme has obtained a measure of success for which its originators can hardly have dared to hope. Throughout the length and breadth of England and Wales, solicitors are sitting at frequent intervals considering cases which come before them and deciding whether applications are worthy of assistance. If they are, they are handed to solicitors who, without remuneration, have conducted them in the vast majority of cases to a successful issue. I do not deny that compliments have been paid to the Society for this work. These compliments come as a rule from judges and those to whose attention the year's work has been particularly called. But it is equally true that, though the work has been going on for eight years, a very large proportion of the public are wholly unaware of its existence and of the unselfish philanthropy of those men who, at great sacrifice of their time, at great personal inconvenience and very often at a monetary disadvantage to themselves, have carried on this work and have made of it an outstanding and lasting success. I have found myself in my own social surroundings talking to people who had no knowledge whatever of the existence of this great enterprise. In view of the large number of cases helped and the really deserving character of most of them, I hardly like to contemplate the position of hundreds of poor people to whom the advantage of legal assistance was denied prior to the institution of the present Law Society's scheme. It has been said that there is one law for the rich and another for the poor, and to a certain extent that still may be said with some justice in some cases, but with regard to the very poor, these people have had placed at their disposal the assistance of solicitors and of Counsel of experience, and have suffered no disadvantage from the mere fact of their indigence. It is a great undertaking, and in these days, when criticisms are levelled at our profession which to a great extent are wholly undeserved, it is right that the public should be told that on the other side of the balance sheet there stands to our credit a work of lasting public benefit for which solicitors neither receive nor expect any monetary reward. And one concluding observation with regard to this work: I desire to say that the Provincial Law Societies have set an example to the rest of the profession. So far as they have been concerned, the work has been done efficiently and loyally, and there has been a wonderful response from their members. I wish I could say the same of London. The response there has not been as good as it might have been. I can only add my hope that by this time next year that reproach will have been removed.

A few words about the Solicitors' Clerks' Pension Fund. This was a scheme initiated by my colleague, Mr. Bernard Drake. If justice were done it should be called "The Drake Pension Fund." It has since its inception in May, 1930, increased its scheme of operation. It is now actuarially sound. It is a good investment for the employer and for the clerk. It provides a pension of £100 a year when the clerk attains the age of sixty-five, and to some extent it frees the employer from the obligation he feels himself under to maintain

those of his staff who being too old, or, possibly, too ill to work, have given him during a lifetime loyal and devoted service. I hope that this scheme will be further supported.

And here, for a moment, and possibly quite by the way and in a company which consists entirely of masters, I should like to interpose a word with regard to clerks. I do not suppose that you will find that there is any class of the employed community from whom the employer receives such loyal and single-minded service as a lawyer does from his staff. For the work that they do, for their loyalty to their employer and their devotion to the flag it would be difficult to find their equal. Cases of treachery amongst lawyers' clerks are so rare that they are practically non-existent. A great many of our clerks, who have become managing clerks, have risen from the position of office boy. They have occupied positions of great trust. They have become first-rate lawyers and have fully justified the confidence which has been placed in them by their employers. If evidence were required as to their ability, one has only to attend meetings of the Managing Clerks Association to realise the capacity of those who by application and conscientious devotion to their work have obtained the complete confidence of their employer and of his clients.

Since the last meeting of the Society the various Solicitors Acts have been consolidated into one, known as the Solicitors Act, 1932. We are largely indebted to Lord Warrington of Clyffe, the Chairman of the Joint Committee of the Lords and Commons, and to Lord Russell of Killowen, a member of that Committee, and to the assistance which those two learned judges gave to the passage of the Bill, for the fact that this Bill received the Royal Assent on the 12th July, 1932, and came into force on the 1st October, 1932.

The legislative period covered by it extends over 600 years, and the Act now presents in a convenient and complete form the provisions of all Acts of Parliament dealing with the law affecting solicitors. The Parliamentary draughtsman responsible for the drafting of the Bill has done his work admirably, and in the result has produced a measure which has done away with the inconveniecne which was necessitated by referring to a long succession of statutes.

A new County Courts Bill of some importance, especially to country members, was submitted to the Council for their observations. The main portion of this Bill is consolidation, but there are in the measure provisions interesting to our profession. The Council have supplemented their criticisms of the draft Bill by the suggestion that the jurisdiction of county court registrars shall be raised, so as to give them power to deal with actions for sums not exceeding £20, and there has been included in the Bill, at the request of the Council, a very valuable provision which will prohibit the circulation of objectionable debt collecting notices.

A Departmental Committee to whose work I wish to refer is the Foreign Judgment Reciprocal Enforcement Committee. A member of the Council, Mr. Randle Holme, was a member of this committee, and as the result of its deliberations several valuable recommendations have been made, and it is hoped that these recommendations, as the result of negotiations between ourselves and foreign powers, will receive the sanction of permanent agreement and enable true reciprocity to exist between us and other nations in regard to a mutual enforcement of one another's judgments.

As one of the results of this committee's recommendations, an Act of Parliament has been passed which enacts that the King may by Order in Council if he be satisfied that reciprocal treatment will be given to our judgments abroad, allow foreign judgments to be registered here, and enforced in the same way as dominion and colonial judgments are enforced under the Administration of Justice Act, 1920.

During the course of the year, a question which has often engaged the attention of the Council and which has been found extremely difficult to deal with, has again come to our notice. I refer to the question of legal aid societies. These societies are conducted by laymen and exist for the mutual profit of the society and the particular class of solicitor employed.

As a rule, the arrangement is that the legal aid societies should receive a percentage of the amount recovered. A few months ago there was a case in which, during the course of certain police court proceedings, the operations of one of these societies came under the criticism of the magistrate, and in due course, owing to the fact that the agreement between the solicitor and the legal aid society was disclosed, proceedings were instituted against the solicitor and he was brought before the Discipline Committee and punished. This case may go some way towards reducing the evil. But in these cases it is very difficult to get hold of the agreement and establish its champertous character involving the solicitor. But, believe me, we are not allowing the matter to drift. It is well known that, at any rate in London, there exists an organisation by which a regular system of touting is promoted, with the result that poor people in hospitals are induced to sign documents retaining the services of a legal aid society and ultimately finding themselves completely in its clutches. We have taken up the matter with the hospitals themselves. We have had interviews with gentlemen who represent King Edward's Hospital Fund, and if you will look on p. 108 of our Annual Report, you will find what the Council are doing and the efforts that have been made in conjunction with the Middlesex County Council towards mitigating this evil. Appended to the report of the Professional Purposes Committee on this subject will be found an appendix which contains the terms of a letter to be written to solicitors in the neighbourhood of the hospitals asking them whether they would be prepared to act in accident cases, and the terms of a notice to be given to accident patients who have been taken into the hospital, warning them against people who suggest that they should be allowed to take up their case on commission, and informing them that there is a list of approved solicitors from whom they can select any one personally whom they may choose to represent them. It is proposed to extend this system to other centres and to other hospitals, and so eventually to try and eradicate a very real abuse.

I should like briefly to refer to a matter mentioned on p. 50 of the Annual Report, namely, the Bills of Exchange Act (1882) Amendment Act, 1932, the effect of the Act being to render it possible to protect a bank draft and to use it safely for the purposes of completion. I mention this particular matter because we are indebted to one of our Society's members, Mr. E. T. Hargraves, of London, for having obtained this amending Act. Mr. Hargraves received the thanks of the Society at the last general meeting for his successful efforts in this matter, and I feel certain you will agree with me in thinking that he deserved them.

I am not going to refer further to matters dealt with by the Council during the year gone by because they can be read by any member of the Society in our Secretary's admirable Annual Report. I have only picked out one or two as being possibly of outstanding interest.

The story of law reform is an interesting one, but hardly creditable to a nation boasting as we do a reputation for businesslike capacity. It is true that when reform has taken place changes have sometimes been drastic, but it has taken a long time to bring about changes and the intervals between the changes have been lengthy indeed. The Common Law Procedure Act of 1854 and the Judicature Act of 1873 did a great deal. They consolidated the courts into their present constitution, they did away with many of the scandals which are well known to most of us from the pages of "Pickwick" and "Bleak House," and they did much towards reconciling the struggle that had been going on for years between common law and equity. Since the Judicature Act of 1873 very little in the way of reform has taken place. True, a Commercial Court recommended by a Council of Judges in 1893 was established in 1898, and a Court of Criminal Appeal also urged by the same Committee of Judges in 1893 became an actual fact in 1907, but until the other day little or nothing has been accomplished in the matter of the reform of legal procedure. At the end of last year a Committee was appointed by the Lord Chancellor which is still sitting and is known as "Lord Hanworth's Committee," which presented an interim report in March of this year. The proper title of this Committee is "The Business of Courts Committee." Recommendations made by this Committee have already been acted upon. Rules of Court have been made by the Rule Committee and some of the recommendations have been included in an Act of Parliament. The recommendations of this Committee and the consequent alteration in the Rules of Procedure are indeed far reaching. They have been summarised in the Annual Report on pp. 38, 39 and 40, and as I feel certain all solicitors have read the Annual Report I do not propose to refer to the recommendations of the Committee in detail. What I do propose to deal with are some of the alterations in the Rules which have been made by the Rule Committee as the result of Lord Hanworth's Committee's recommendations, and to allude to the provisions of the Act of Parliament known as "The Administration of Justice (Miscellaneous Provisions) Act" which received the Royal Assent on the 28th July last, which legislates to bring about those reforms which the Rule Committee had not the power to effect.

The rules are now altered so as largely to extend the procedure well known to practitioners as "The procedure under Order 14." The new rules will not apply to actions for libel, slander, malicious prosecution, false imprisonment, seduction, or breach of promise of marriage, or to actions in which fraud is alleged by the plaintiff. These, by the way, are the only actions left in which the parties are entitled to a jury as of right and in which they have not necessarily to obtain the judge's permission for a trial by jury.

Under the new rule the word "may" is used so that apparently the procedure is alternative, but in accordance with its provisions a plaintiff may deliver his statement of claim endorsed on his writ and swear an affidavit that in his belief the defendant has no answer to his claim and apply for judgment. The judge may, unless the defendant can satisfy him that he has a good defence to the action on his merits, make an order empowering the plaintiff to enter such judgment as may be just having regard to the nature of the remedy or relief claimed. It is a little difficult at the present time to see to what extent this procedure will be used, and how the reform will work, but that it is a method which, if it can be successfully employed, will enormously facilitate the despatch of business in the courts cannot be doubted.

In connection with this procedure it has occurred to me that it may well be that when the facts of the case supported by affidavits on both sides are before the court with a view to the court deciding whether the defendant shall be entitled to defend the action or not, facts may well emerge which will put the master or the judge in a good position for deciding not only whether the defendant should have leave to defend, but whether the plaintiff has any justice in his case. I have often heard it stated by judges that an action should "never have been brought." I have known in my experience of many actions which have been brought by plaintiffs on the terms of "heads I win, tails you lose," and it may well be that this new procedure may be extended to afford a judge some opportunity of controlling a plaintiff as well as a defendant and of saying to a plaintiff "You may proceed but you must do so upon terms" either as to lodging security for costs or upon such other terms as to the judge may seem fit.

The rule which now exists in regard to the so-called "new procedure" practice that a summons for directions should not be taken out before pleadings have been closed is now made a universal rule.

Important provisions are made with regard to payment into court. The fact that money has been paid in is for the future to be withheld from the knowledge of the judge who tries the case, except in two cases, so that the tribunal will not know until liability has been established and the quantum of damages has been assessed either the fact that payment into court has been made or the amount paid in. This appears to be an excellent provision, and in the explanatory memorandum which accompanies the new rules, the reasons given seem to me excellent. It may be that in the future far fewer cases will be tried with a jury and far more cases come before a judge alone, in which the practice of payment into court has been resorted to, and the question will therefore assume still greater importance. The same logic applies to withholding from a judge knowledge that the defendant has paid money into court as applies to a jury, and it is obviously unfair to a judge that, in weighing the considerations of law and fact as to liability, he should be burdened by the duty of shutting out from his mind the fact that a defendant has paid money into court in respect of the claim, or that in weighing the considerations as to quantum of damages he should be under the difficult duty of disregarding the fact that the defendant has paid in a certain sum. He will, of course, have to know of the payment into court and the amount of that payment before he determines the incidence of costs.

Another Rule of Court which has been made recently concerns a matter which did not arise directly from the recommendation made by Lord Hanworth's Committee. It is, however, one of great importance to those who are concerned in actions for defamation. Before the year 1883, payment into court could be made with a denial of liability in cases of defamation, as in other cases. But the Rules were altered in this respect because of some alleged distinctive characteristics in actions of libel and slander. These distinctive characteristics I have never personally been able to understand. But since 1883, when the defendant wished to pay money into court in an action for defamation, he could only do so with a defence admitting liability. This, to my mind, anomalous state of the law recently came into public notice in connection with a case which was decided a short time ago. In that case, which was an action for libel against a newspaper, the newspaper paid a substantial sum of money into court, and the plaintiff took the money out of court and carried the action to trial, and in the end was awarded by a jury a sum of a farthing as sufficient damages to satisfy his claim. After a careful survey of the facts, the learned judge who tried the case, a fine lawyer well acquainted with the law of libel, came to the conclusion that he could not order the plaintiff to repay the excess over a farthing of the money which had been paid in—some hundreds of pounds—his reason being that he had no power to order the plaintiff to return the money, as he had taken it out before the verdict and it had become his property.

The rule is now altered in two respects—(1) a defendant may pay money into court in an action for defamation and deny liability, and (2) if the plaintiff wishes to take out the money paid in with defence he can only do so in satisfaction of his claim, otherwise he must go on with his action; and for a further protection to the plaintiff he may now, when in satisfaction he takes money out of court in a defamation action, obtain the leave of a judge to mention the matter in open court. This would satisfy the plaintiff who justifiably desires his vindication to be a matter of public notoriety.

This amendment to the law will go a long way to discourage speculative actions of libel against newspapers. In this class of action I have had a large experience, and I say without hesitation that many of such actions should never have been brought. Undeserved attacks by newspapers on innocent people should not be tolerated, and untrue attacks upon the private character of individuals by so-called society journalists should be punished severely. Such attacks are cowardly and improper and deserve the censure of all honest men, and indeed receive the condemnation of the best type of journalist. But I do say that there is a class of speculative practitioner who has always been all too ready to bring frivolous actions against newspapers for an impecunious and financially insolvent client. Sooner than fight such a case and incur an expense which they will never recover, newspapers have been apt to admit liability and pay money into court. And a speculative plaintiff has taken that money out of court and proceeded to trial on the strength of it, and in the hope that he may snatch a verdict in excess of the amount paid in. Now at any rate such a plaintiff will no longer be able to take the money out of court and with it continue his action. He will have to elect whether or not the amount satisfies his claim or proceed to a trial at which it will be in the power of the judge to deal with the question of costs.

Three weeks after the issue of the Rules of which I have just been speaking some further Rules were published. I do not stay to deal with them now because I must consider the time at my disposal. But paragraph 12 of the new Rules should be noted, and it is to the following effect: "These Rules shall come into operation (*a*) on the 1st day of July, 1933, in respect of actions commenced on or after that day; and (*b*) on the 1st day of August, 1933, in respect of all other actions"; so that the Rules are now in operation. Other matters suggested by the Lord Hanworth Committee required legislation for their establishment, and such legislation has been embodied in the Administration of Justice Act above referred to. It concerns the abolition of grand juries, as to which opinion is practically unanimous, except in the minds of those who are conservative to the point of unreasonableness. Grand juries will go, with all their attendant expense and inconvenience. I feel quite certain that the protection which they are supposed to afford to the subject is really trifling if it exists at all. The establishment of the Court of Criminal Appeal furnishes an entirely satisfactory safeguard to the person who is put upon his trial on indictment.

Another section in the Act provides a discretion to the court in all actions, with the exception of those for defamation, malicious prosecution, false imprisonment, seduction, or breach of promise of marriage or fraud, to decide whether a case may be tried by a jury or not. Actions for fraud were added to the excepted list, except in such cases when the court or judge may direct trial without a jury in complicated cases which involve any prolonged examination of accounts or any scientific or local investigation.

Personally I am well satisfied with this reform. It is an old saying that if you have a good case try it before a judge alone, but if you have a bad case try it before a jury. This rule may be all very well, but what we have to consider is the good case and not the bad one, and in any case judges can be trusted to do their duty and to be sufficiently equipped with common sense to decide the facts as well as the law, as well as to settle whether after all a jury may not be appropriate to any particular action.

In introducing the Bill the Lord Chancellor stated as follows: "In the case of Special Juries, over one-half are running-down cases. In cases before Common Juries over three-fourths of the cases are running-down cases. There is no doubt that once you eliminate trial by jury from such a type of case you will enormously economise time and speed up litigation."

Another important provision contained in this Act is one which relates to costs in proceedings by and against the Crown. In proceedings between one subject and another the costs are in the discretion of the court and the unsuccessful party is usually ordered to pay. But there is an old rule that the Crown does not ask for costs and does not receive costs. In other words parties pay their own costs whatever the result of the action. In practice there are, of course, many exceptions to this rule as the result of particular legislation or because the proceedings are nominally brought by or against

some officer and not the Crown, but the general rule still survives and from time to time bitter complaints are made by parties who succeeded against the Crown and yet are obliged to bear their own costs. Now, under this measure these costs are to be in the discretion of the court, and are to be governed by the same principles as in cases between subjects, so that the court will now have power to make an order for payment of costs by or to the Crown accordingly.

With the exception of the shortening of the Long Vacation by a matter of about ten days, these are the reforms which have been carried into effect by the Rules Committee or which have been enacted by the Administration of Justice (Miscellaneous Provisions) Act, and you will agree with me in concurring in the importance of the reforms carried out. One word as to the Long Vacation. I doubt whether the ten days will make much difference, but this I do know, that one of the results will be that clerks' vacations will have to be rearranged. The Autumn term will now be a very long one and it will not be so easy to get ready for heavy litigation in September, when of necessity one's staff is much depleted. The alteration by the way is experimental and not permanent and I *personally* rather hope it will not be finally adopted.

There is one other Act which received the Royal Assent on the 28th July last to which I would refer. It is called "The Summary Jurisdiction (Appeals) Act, 1933." It deals with the right of an accused person to appeal from a court of summary jurisdiction. Hitherto it has been necessary for such a person either to enter into recognizances, or to deposit a sum of money, or give some sort of security by finding sureties for the prosecution of his appeal. This has worked a hardship upon poor people, because in such cases it has almost always happened that the appellant has had to deposit £50 or to get a surety for such an amount, and the reform suggested is that the magistrates are left with the discretion as to the amount of the security.

I think the arguments adduced by the Lord Chancellor in support of this Act are incapable of contradiction, and I think it brings justice to a large number of people to whom justice has hitherto been denied.

And now a few words on procedure, more especially with reference to the complaint that the present system is unwieldy, uncertain and slow.

What may be called the mechanical arrangements of the court should be improved. The preparation of the cause lists, the summoning of jurymen and the waste of time caused to jurymen in waiting and of witnesses coming from a distance, is a scandal. The uncertainty as to when a case will come into the list, its inclusion in the list when it cannot possibly be reached, all these things are matters which I feel certain, assuming the business of the courts were treated as if it were a commercial undertaking, would be remedied. There is one division of the court with which I have particular acquaintance, namely, the Divorce Court, where the Clerk of the Rules, Mr. Stewart Chapple, makes it his business to communicate on the telephone with solicitors in charge of cases and to ascertain from them the probable length of the case, and so to order his list accordingly. I cannot but think that if the Associates Department of the High Court would make the same use of the telephone the position would be bettered, and that people would not be brought to London to loiter about the courts and waste their time unnecessarily.

Again, take the composition of juries themselves. So long as the present means qualification, fixed years and years ago, remains, and the personnel of a jury is purely a matter of chance, you may find a case tried involving considerations which are wholly outside the scope of the intelligence of the jury which is summoned to try it. Some of these cases are highly technical, some are concerned with social conditions utterly dissimilar to those of the jurymen in the box.

I have sometimes seen the panel of a special jury and been utterly at a loss to understand how the persons included in that panel, many of them, for instance, licensed victuallers in a small way of business, can be expected to do justice to the case which they have to consider.

I think there is another matter in which litigation could be speeded up. A judge is expected to sit from 10.30 until 4. It happens occasionally that either through cases collapsing or because the judge is a rapid worker that his list is finished some time before 4 o'clock. Some judges are willing and only too ready to take cases from other lists. It would be a good thing if it were a universal rule that they should.

But, apart from mechanical shortcomings, the public complains and complains rightly of the law's uncertainty. What else can be hoped for so long as statutes remain badly drawn and have as their necessary accompaniment a long list of legal decisions which serve to complicate the difficulty of interpretation? Acts of Parliament should be more simply drafted so that not only the judges but also the man in the street (and that street not necessarily Chancery-lane) can get a glimmering of what they really mean. Take, for example, the Finance Acts. Who, except possibly one or two specialists, can pretend to understand all their provisions, and, after all, they are important to the average man.

But I am convinced that there is one reform needed more than any other, and that is a reform which involves the limiting of appeals. This is a pressing problem, only fully appreciated by those engaged in litigious work. Let me mention a recent case under the Rent Restriction Acts, concerning, I believe, three furnished rooms. It was tried in the county court; an appeal was made to the Divisional Court, thence to the Court of Appeal, and thence to the House of Lords. Such cases strike the layman as public scandals, and indeed they are. Just contemplate the hardship on the wretched landlord, who won all along the line, the tenant having sued as a pauper. Think of the waste of public money and contemplate the waste of time. To my mind the Divisional Court, excepting in a few cases such as those in which a rule *nisi* was applied for, should be done away with altogether, and appeals should go straight to the Court of Appeal, which should consist of twelve members made up of the present tribunal, supplemented by the six Law Lords. These twelve appeal judges could sit in four divisions of three judges, and indeed a fifth court could be provided when ex-lord chancellors are available. An appeal to the House of Lords is most costly, so costly indeed that it must be the despair of the average litigant. A payment of £200 has to be lodged in court and a bond executed for a further £300. One appeal should be sufficient in all cases. When you come to think of it, the most serious consideration in life is life itself. There is only one appeal open to a man convicted of murder. Why should there be any more than one in any other case? The Court of Appeal could be constituted so that judges could sit to hear appeals who are well versed in their particular subject-matter, so that common law judges could hear common law appeals, and Chancery judges Chancery appeals, and possibly appeals of the Probate, Divorce and Admiralty Division. Appeals from the Special Commissioners of Income Tax would go straight to the Court of Appeal, as also county court appeals.

I agree that the question of the Privy Council might furnish some difficulty, but I do not think that that difficulty is incapable of being overcome. One of the Courts of Appeal might sit with the addition of those judges specially acquainted with the law and practice of the particular dominion or colony from which the appeal came. I agree that there remain the present appeals from Scotland. I would allow Scotland to deal finally with their own appeals. The judges of their appellate court are quite capable of doing so.

So much for reforms in procedure. There are two or three matters which concern cases in which I think satisfactory reforms might be brought about in the law itself. Why should a husband be liable for his wife's torts? I believe that this anomaly is maintained on an old principle that a husband and wife are one. As the law at present stands, a woman may take away character, and in an action for damages her husband may have to pay. In a recent case this matter became the subject of judicial comment. A woman was sued by another woman for damages for enticing her husband away. The husband of the female enticer was joined as defendant. The action failed, and presumably the husband had no one to pay but his wife's solicitor. But just consider the position if the action succeeded. The husband of the enticer would have been liable to pay costs and damages in respect of not only his wife's wrongdoing to the other woman, but also in regard to a matter in which his wife had caused him, her husband, as grave an injury as can well be imagined. It is surely time that such a state of things were remedied. I believe that a Bill was once introduced, but for some reason it was dropped, and the law remains as I have said. Oddly enough, a wife is not liable for her husband's torts.

But not only in tort is a woman advantaged, but in contract. Cases are constantly occurring, and always obtaining publicity, in which the question of a husband's liability for his wife's contracts is discussed. The present difficulty of satisfying a judgment against a married woman is well known.

Income restrained from anticipation cannot be disturbed. A married woman cannot be committed to prison, nor can she be made bankrupt, except in cases where she trades in respect of her separate estate. Personally, I cannot understand why she should enjoy these immunities. I know some blame is to be attached to tradespeople who tempt women to incur extravagances in the belief that the husband will pay, but I believe this evil would cease if the tradesman knew that he must regard the wife and not the husband as his creditor; and I know of a good many husbands who would sigh with relief if their wife's extravagances were curbed by the possible consequence of a petition in bankruptcy or a committal for debt. Further, in such cases, I am of opinion that the restraint on anticipation might by leave of the court be properly raised.

I understand that I am expected to say something on the subject of divorce. Various attempts have been made from time to time to alter the present law and one substantial and noteworthy change has been effected, namely to place the sexes on the same level as to their rights to petition the court for a dissolution of marriage. Prior to July, 1923, a wife, in order to obtain a decree dissolving her marriage, had to prove against her husband (1) misconduct, and (2) either cruelty or desertion. Since that date in England it is only necessary for a spouse to prove misconduct. No one can argue that such a change in the law was not wholly desirable. But in spite of frequent agitation, letters to the newspapers expressing the views of distinguished and authoritative persons, despite the recommendations of a strong majority report by a Royal Commission, no further change in the law has been effected.

It must, of course, be borne in mind that the whole subject of divorce, involving as it does the interest of the family and dealing as it does with profound questions of religious views, upon which different members of the community, according to their creed, hold widely divergent opinions, affecting as it does the whole social constitution, can only be approached and contemplated in a spirit of very serious consideration. It is only after an experience of over forty years of the operation of the present law that I have come to the conclusion that the right of the Divorce Court to dissolve a marriage should be extended beyond its present limits. I ought at once to say that I cannot follow some of the apostles of reform in their crusade to alter the present law. I am not in favour of granting divorces to the spouses of convicts or lunatics. But I am in favour of extending the law so as to enable our judges to relieve a spouse from the burden of life with another at whose hands he or she has suffered "persistent and aggravated cruelty." Let us consider two cases and their possible legal consequences and the penalties they entail on the guilty party. For one isolated act of infidelity by the other, a man or woman can obtain a decree of divorce enabling either of them to obtain the custody of the children and to get a settlement of money to be secured upon them for their life. It matters not how utterly repentant the defaulter may be—the wronged party may obtain this relief in consequence of the wrong doing. Now look at another picture. A man may physically beat his wife, may abuse her before his children and the servants, may render her life, to use a familiar phrase, "Hell on Earth," and yet she can only obtain a judicial separation from him which does not enable her to re-marry and which only permits of her obtaining during *joint* lives an unsecured periodical payment of money so that if her husband dies a week after the decree she and her children may get no financial provision, and find themselves penniless. What is the position of such a woman? During her married life she has experienced infinite misery. After her decree of separation she assumes that wholly unenviable position of a separated woman and as the result may be avoided by society, and in the end people are bound to say such charitable things about her as "no smoke without fire," and end by saying that her separation was due to her own fault. I ought here to add that when as in so many cases the husband does everything to torture a wife short of actual physical violence she cannot even obtain a judicial separation unless she can prove by medical testimony that his conduct has injured or tended to injure her health.

Nor is this sort of story entirely one-sided. I admit that in many cases of domestic misery the fault lies with the man, but there are cases, and many, where the woman can and does make life unendurable for her husband. There is a case of a drunken woman who neglects her home duties and her children; there is the case of a jealous woman who suspects her husband's every move—in short, there are cases where the blame rests entirely upon the wife and in which the husband ought to be placed in the position of being able to get the marriage tie dissolved.

I have sufficient faith in the capacity of our judges to allow them to settle a definition of "persistent and aggravated cruelty." I feel convinced that for two persons to remain married under conditions such as those I have mentioned is demoralising and the cause of much avoidable unhappiness. I would have you bear in mind that I am not drawing on my imagination for these stories of married misery. They are the subject of frequent and actual personal experience in the course of my practising career. I am also of the opinion that, as in Scotland is the law at present, a decree of divorce should be granted for four years' "wilful desertion."

Before concluding, I wish to allude to one matter in regard to which I may be criticised as to what I say, and if so, I do not mind. Some two years ago, various officials were subjected to cuts. Amongst them the judges' salaries were reduced by a thousand pounds. It is idle to suppose that this reduction made any difference to the nation's financial position. Such a surmise would be farcical. The net result of this operation is that a judge of the High Court, or a Lord Justice of the Court of Appeal, now receives, after deduction of income tax and super-tax, a net sum of about £2,600 a year. Was there ever a more mischievous or unnecessary proceeding? A judgeship was once regarded as a prize and meant a reward for success at the Bar. What temptation can there be to any lawyer in substantial practice to exchange the Bar for the Bench at such a remuneration? I conceive it to be a positive danger to the administration of justice that judges should be ill-paid. Not because our judges who accepted the position forced upon them, loyally and without murmur, would ever the less seek to dispense justice, but because £2,600 a year will not and cannot tempt the best man to take office. I, for one, and I am sure that many of you will agree with me, would all the more gladly have resigned myself to the reduction which we accepted in our charges if we had been told that the money so saved had been devoted to the maintenance of the judges' salaries at £5,000 a year, and that indeed without deduction of tax. A proceeding such as this is stupid and ill-conceived, and may seriously tend to impair the efficiency of the Bench and the administration of justice.

I do not think it worth while to discuss their position under the Act of Settlement or to stay to consider whether judges are civil servants or not. I take the practical view that you cannot get a good thing without paying for it and I lament the possibility of it ever being said that the standard of excellence of our High Court Bench had deteriorated or that it had ceased to excite the admiration and envy of the rest of the civilised world.

We solicitors get more than our fair proportion of blame for the expense of litigation. I have sometimes seen in the press statements as to how much a case has cost, the figures sometimes running into many thousands. I do not say that in all these cases the estimate is well founded. I happen to know that in some cases it is far beyond the mark. But I would like the public to know that when it is said that a case has cost £30,000, my belief is that the public thinks that the bulk of this money has gone into the solicitors' pocket, forgetting altogether the expenses of counsel, and of witnesses, which very often go to make up far the larger proportion of the bill.

Something has been said during the past year with regard to what has been described as the archaic system under which solicitors are called upon to render their bills of costs. There can be no doubt that the system is of some standing, because we find a provision in an Act of James the First that attorneys were to "give a true bill to their clients of their charges concerning the suits they were conducting, subscribed with their own hands and name before such time as they or any of them should charge their clients with any of the same fees or charges." Such bills of costs related exclusively to litigation and it was not until 1843 that bills in non-contentious business could be taxed, and not until 1920 that non-itemised bills received official recognition. Until that date a lump-sum bill did not constitute a bill of costs within the meaning of the 1843 Act, and it was possible, therefore, for a client to insist upon delivery of a detailed bill and upon its being submitted to taxation, no matter how long ago the work had been done. This state of affairs was remedied to some extent by the Solicitors' Remuneration Order of June, 1920. This Order, however, is limited in its advantages because the client may call for a detailed bill not merely within twelve months after the delivery of the lump sum charge, but within one month after payment. It is, therefore, to the client's advantage, in order to keep open his time for taxing, to postpone payment of the bill. My own view is that there would be sufficient protection to any reasonable client if the time within which he can call for a detailed bill were reduced to six months. I think also that the provision under which his power to tax the bill is kept alive by neglect to pay it is altogether unreasonable. It is my purpose during my year of office to consider the possibility of securing an amendment in the Order in these two respects.

I am aware of the adverse criticisms which have been directed against the system of itemised bills of costs. Lord Langdale, who was Master of the Rolls in 1841, stated that it resulted in over-payment for some services by way of compensating for under-payment for other services.

It is my deliberate opinion, however, that a client if he wants it, should be entitled to an itemised account of what his solicitor has done for him. I think also that Lord Langdale's criticism is not so justified now as it was when he made it. The Taxing Master to-day (it was not so in Lord Langdale's time) has been a practising solicitor. He understands that what he is there for is to see to it that the solicitor is fairly remunerated; and in the main he knows his job and does it. On the other hand, there are many clients who prefer lump-sum bills and there are many occasions on which such bills inform

any reasonable client of everything he requires to know. This being so, I think the lump-sum order ought to be made more practically useful by amending it as I have indicated.

Some little time ago we were asked to reduce our charges, and we did so voluntarily. I personally would have consented with a far better grace to the suggestion if I had thought that the public could really understand and appreciate what we are giving up. I am afraid, however, that a large proportion of the public through sheer ignorance assumed that we had been receiving too much and, therefore, that it was mere justice that we should now receive less.

At the time when this reduction was made, statistics were got out which indicated that after paying standing charges our profit on a litigious bill was about 26 per cent.

I am glad of a public opportunity of stating this, as it may go some way towards disabusing the public mind of any idea that our charges are extortionate. All that we really want is that the public should be well served and that we should be paid a reasonable sum for doing good service to those of the public who are our clients. But I do object, and object most strongly, to the view which has been expressed over and over again, that it is solicitors and solicitors only who are responsible for the expenses of litigation. The statement is quite untrue and should be branded as a lie.

The public are greatly to blame. They will insist upon having the most expensive counsel in their cases, and the most expensive counsel charge the most expensive fees.

I remember the time when you could get your case admirably attended to for a fee of twenty guineas and even less by a leading counsel, but that time has quite gone by. People talk in hundreds when they used to talk in tens, and so long as the public is prepared to pay these fees, so will the expense of heavy litigation remain what it is.

And now I have finished. I have spoken at some length, but my excuse must be that I am keenly interested in the subjects which I have touched upon, and feel that they are such as deserve the attention of our profession.

Lest I should be misunderstood I do not wish to suggest that imputations upon solicitors are universal. Far from it. Though some of our profession may be unworthy, the vast majority of our body are men who are jealous of their professional honour and who having won their clients' confidence by loyalty and by the service of their true interests have deserved and earned the wonderful name of "friend," and that after all should be the conclusion of the whole matter.

Let us continue, therefore, to try and maintain that high tradition; and in our work for our clients and in our business relations with one another let us cleave to those things which are just and of good repute, so that we found ourselves on the best traditions and hand down to posterity a record of honourable service and the accomplishment of work well done. Let us keep clear before us the fact that we belong to a "profession," and what that word does and should mean. Let the standards which we set up be no idle boast, but the very truth, so that by their observance we may retain the confidence of the public who are our clients and whose best interests we seek to serve.

Mr. J. C. B. GAMLEN proposed a hearty vote of thanks to the President for his admirable and interesting address, which had given his hearers great pleasure. They were all deeply grateful for the really serious contribution which the President had made to the many problems of the profession.

Mr. C. W. WRIGHT, President of the Liverpool Incorporated Law Society, seconded the resolution, and said that he was sure that during the coming year the President intended to do a great deal of work for the good of the profession.

The PRESIDENT said that he was greatly obliged for the resolution, which was wholly unconstitutional but gave him much pleasure.

Mr. HILARY JENKINSON (F. W. Maitland Lecturer in the University of Cambridge, Reader in Diplomatic and Archives in the University of London, Honorary Secretary of the Association) read the following paper:—

THE WORK OF THE BRITISH RECORDS ASSOCIATION FOR THE PRESERVATION OF LOCAL AND PRIVATE RECORDS.

Records in England.

The word *Records* should have a special appeal for any society of lawyers, for it was the law which first gave to what in origin means only *Memory*, the significance which it now most commonly bears—that of *Written Memory*. Records thus came to mean the MS. remains of business transactions in the past preserved as evidence for the future. The word, however, has in modern times transcended legal limits. We speak of the Records—it would perhaps be better if we said Archives—of any business transaction, legal, financial or administrative, public or private, medieval or modern; and in the last two or three centuries—and with particular and increasing force in our own day—historians, archæologists, genealogists, topographers, economists, and all kinds of other people have been discovering that in the accumulations of such documents which have survived to us from the past may be found materials for new knowledge of an extraordinary wealth.

No country is more rich in such survivals than England: indeed, the continuity, quantity and quality of some categories of records in this country cannot be parallelled elsewhere: and this applies not only to the series which have survived to tell us of the activities of the Central Courts of Law and of central administration in general: it applies also to those of the instruments of local government such as boroughs and (later) quarter sessions and counties: it applies to those of the very large category of semi-public institutions, such as the numerous great colleges and other endowments, professional bodies like the Inns of Court, and (later again) commercial corporations such as the Bank of England; which, though private institutions in origin and still largely independent of public control, yet discharge public functions whose high importance is reflected in the value and extent of the records they have preserved: it applies to the entirely separate category of ecclesiastical bodies—provinces, dioceses, archdeaconries, parishes and chapters: and finally it applies to the purely private institution of the family; whose activities, notably in connection with the ownership and management of land, have resulted in surviving masses of MSS. which, in spite of many calamities, are probably richer than anything of the kind in any other European country.

Record activities in England: and the British Records Association.

The fly in the ointment from the point of view of historians and others interested in the proper exploitation of this great national wealth is that in England up to the present neither circumstances nor legislation have led, I will not say to any central control of this mass of documentary wealth, but to any measure of co-ordination between the hundreds—if one counts all the private owners one may say thousands—of persons and institutions who own it. Even if they are aware of the need of certain technical provisions for the safeguarding of their documents against damp, misplacing and other natural enemies, or of the desirability of making them (by cataloguing, publication or other means) reasonably available for students, and of doing these things according to certain accepted standards and not without reference to the action of other persons and bodies in a like position to themselves, there is no body or person officially charged with the task of making this possible, no machinery through which those interested may meet, exchange views or hear details of each other's activities and discoveries. The British Records Association has been founded with the idea of providing on an entirely voluntary basis this highly necessary machinery. Its President is the Master of the Rolls and its Vice-Presidents, officers and council* form a body very widely representative of record interests in this country. If it can enlist in its membership a reasonably large proportion of the institutions and individuals who own or are interested in records it will be a comparatively easy task to give those members the means of achieving real homogeneity in their treatment of this most valuable property.

The Association and Private Records.

The most urgent and at the same time the most delicate responsibility the Association has to face is that of doing everything that can be done for the saving, and within limits the utilisation, of private collections. The public records have their legally appointed custodians: counties, boroughs, ecclesiastical authorities and semi-public institutions are not without official powers, and even funds, to carry out ordered work upon their collections; and (may I say it without offence?) are becoming increasingly conscious of their responsibilities in this matter and of the propriety of expending labour and money upon it. The need for concerted action remains: the question of publication and public access still presents many and great difficulties: but at least there is an increasing guarantee of safe-keeping. The private collections are in a very different case; and especially those comparatively small ones which have no obvious national importance because they do not contain what are really State Papers, such as are to be found in some of the great collections which have been dealt with by the Historical MSS. Commission. It is of these small but important and very numerous collections

* Vice-Presidents are nominated to represent the Public Record Office, the British Museum, the Society of Antiquaries, and the Record Interests of Ireland, Scotland and Wales; members of Council are nominated by the Archbishop of Canterbury, the Royal Historical Society, the Institute of Historical Research, the Library Association, the County Councils Association and the Association of Municipal Corporations; and elected Members of Council are drawn from a large number of bodies interested in the publication or conservation of records.

that I wish particularly to speak. In doing so may I begin by disclaiming emphatically on the part of the Association any pretension or desire to interfere with private rights. We are concerned for the future of some of these collections: we wish particularly to secure the co-operation of solicitors in our efforts on their behalf: and we believe that we may even to some modest extent be useful ourselves in certain cases to the solicitor. That is all.

The Classes of Documents in Private Hands.

Family collections in this country rarely include, before the later sixteenth century, anything but documents relating to land tenure: when the more miscellaneous classes of correspondence and the like do occur, as they do with increasing frequency after that date, our interest of course extends to them and we are anxious to do for them as much as we propose for the others. But it is of those others—the records of land—that I propose specially to treat in the present instance. They fall into four divisions—those of the deeds, the manorial rolls, the manorial accounts, and miscellaneous documents (including such important things as rentals). I need not describe in detail how the whole history of a family or of the descent of a property is often to be found—and to be found only—in such collections: nor perhaps need I emphasise, though it should be mentioned, the fact that not merely the genealogist and the topographer are interested in them; that the economist and the social historian cannot do without them and that many others draw frequently most valuable evidence from such sources for the history of medicine, art, literature or law. In connection with that last there is one study to which I may perhaps refer here by way of particular illustration. The early history of conveyancing in this country can look to practically no source except collections of original deeds. Treatises on the subject before the time of printing are the rarest of survivals: and if ever that history comes to be written as it ought to be written it will, I believe, be based largely on a reconstruction of the formularies from which the medieval conveyancers worked, by means of the study and analysis of collections of deeds (if enough of these are available) which have been preserved integrally, with their relations to each other undisturbed, as they were put together by the administrators of this or that property in the course of centuries.

Deeds.

Now what has happened in recent years to these Private Collections? Briefly we may say that up to the Legislation which substituted short for long title in 1874 the *Deeds* were carefully preserved by the owners of land or (perhaps more often) their lawyers in spite of increasing difficulties due to pressure of space and similar considerations. Since that time they have come on to the market, it is no exaggeration to say, by tens of thousands† and been sold according to their quality to all kinds of purchaser. At the best they have been scattered (thus losing much of their value) among public or private collectors; at the worst they have gone to the tambourine-maker or glue-manufacturer; and with them went much of the *Miscellanea*, many of the *Accounts* and some even of the *Court Rolls*. They were no longer of practical importance, they were troublesome to keep, and their historical value was not generally realised. Local historians were the first to awake to the danger; and for the last twenty or thirty years archæological and record societies have been agitating for something to be done; but the primary difficulty was always the same—if these documents are to be saved for the student where are the public repositories in which they can be bestowed? and who will make the necessary arrangements? To those questions there was seldom a satisfactory answer.

The Court Rolls *and the new Manorial Repositories.*

Danger to the *Court Rolls* has come much more recently and was realised much more quickly. Historians and antiquaries, with the knowledge of what had happened to the *Deeds*, apprehended a similar fate for these rolls as a result of the Law of Property Act of 1922. Accordingly, an amendment to that Act which came into force in 1926 provided that "all manorial documents shall be under the charge and superintendence of the Master of the Rolls," to whom powers were given to make provision for the custody and proper preservation of such documents, and in particular to make arrangements for the deposit in approved places of those which do not "remain in the possession of or under the control of the lord for the time being of the manor to which the same relate." *Deeds* were excluded from the definition of *Manorial Records*. In pursuance of these provisions, and taking advantage of the greatly increased interest in local records which has now become common among local authorities of every kind, local societies and (notably) public libraries,‡ the Master of the Rolls has set up a central committee to deal with manorial records and has also approved, in connection with this central committee, at least one repository§ in every county as a place of deposit for those which have passed out of their proper ownership or whose owners do not desire to keep them. In the case of *Court Rolls*, then, and other strictly defined *Manorial Records*, the problems both of central handling and of local disposal have to a large extent been met: and as a corollary (since most of the approved repositories are interested in and prepared to accept other documents of local importance, and especially *Deeds*) the problem *where?* is by way of finding solutiion in relation to these documentsalso.

The Association's Work for Record Preservation.

Remains the question of organising some kind of service for obtaining possession of unwanted collections of documents (other than manorial ones) from their present owners or custodians and distributing them to suitable places. A successful beginning was made by the British Record Society some four years ago and their work has been taken over during the present year by a special *Records Preservation Section* of the new association. Naturally, in attacking so large a task one must commence with a certain degree of modesty, but already it is possible to say that much has been accomplished. The most urgent needs were clearly those of providing some kind of permanent centre where documents could be received, sorted and distributed and some permanent staff. The first‖ of these is being met at present by means of a grant from the Carnegie Trustees. From the same source a certain amount of paid secretarial work is provided; but the larger part of the processes of sortation and distribution calls for expert knowledge; and this the section has been fortunate enough to secure in the voluntary labour of a number of members, all of whom have served a long apprenticeship to record work in other fields. It would be interesting but not perhaps very discreet to describe in detail some of the experiences which these enthusiasts have had during the last few years. They have had ample evidence that the danger to valuable documents is still very real, having had brought to their notice a lamentable number of cases where destruction of whole series of *Deeds* had actually occurred and many more where the owners of such collections had fallen into the common error of thinking that though the older documents in a series relating to a single property might be of value the later ones could safely be destroyed. In at least one case they have been able to interfere to save from destruction valuable records which were not, strictly speaking, private; in another there was a thrilling last-minute rescue of documents condemned to the pulping machine after the covers had actually gone; and there have been instances where they were able to supply the donor of one set of documents with valuable information about his own land drawn from the muniments of another property to which it had been at some time united. About thirty collections have been dealt with up to date and varying amounts of documents have been despatched to forty-two repositories.

It was realised from the outset that if the movement was to appeal successfully to owners and custodians, it must be conducted on well-defined principles: there must be no question that the subsequent safety of the documents and their accessibility to students were reasonably provided for, that record was kept of their distribution, and that the special interests of the donors or depositors were duly considered. Accordingly, every effort has been made to frame the rules governing the action of the Association through its Records Preservation Section to meet these requirements. In the first place a Special Committee was asked to lay down principles to be observed in the organisation of Local Record Repositories and in general the Association is guided in its choice of places to which documents may be sent by the fact that they have or have not accepted these. In practice the result is that the bulk of the Repositories approved by the Master of the Rolls figure on the Association's list (some of them are not prepared to accept miscellaneous documents) and that a few others have been added. The Association itself is particularly careful in maintaining the integrity of original series when arranging distribution¶: and among

† Some indication of the destruction may be gathered from the fact that quite recently we heard of a dealer whose stock (then in danger of being pulped) was said to number over 50,000 documents.

‡ The Library Association has for many years included as one subject for its Diploma examination the study of *Palæography and Archives* and the same subject has figured as a regular part of the curriculum of the School of Librarianship at University College, London, since its foundation in 1919. Most of the large libraries now make a practice of collecting documents of local interest and many have very important accumulations.

§ The authorities maintaining these repositories are of the most diverse kinds; including archæological and record societies, borough authorities, colleges, county councils, public libraries and museums.

‖ The Office of the Records Preservation Section of the Association is at 2 Stone Buildings, Lincoln's Inn; the Chairman of the Managing Committee is Miss Ethel Stokes.

¶ i.e., if what is clearly in origin a single series happens to relate to diverse localities it is not for that reason broken up. The accepted principle is that it should go to the locality chiefly concerned and that the others should be informed.

other guarantees Repositories are asked to undertake that they will provide some measure of accessibility to students, will catalogue the documents they receive and communicate copies of the catalogue if desired, and will not destroy or part with any documents so received without reference to the Association. As a further measure of precaution all documents are stamped with the name of the Association before being distributed; and, of course, a register is kept of all collections received and for each such collection a formal receipt is given. I should add that the Association is prepared, in any case where this is desired, to examine a collection and report on it to the proposing donor before making any arrangements for distribution.

Conclusion.

What the British Records Association now urgently needs, perhaps more urgently than anything, is to get in touch with the owners or custodians of private collections: that is to say, in a very large number of cases, with solicitors. We should, of course, like to have from the ranks of that profession a large accession to our Association, either of individual members or of members representing corporate institutions**: but whether or no our aims so far interest them as to incline them to join us as members we are most anxious to be in touch with them. We want it to be known to all who find it necessary, or presently may find it necessary, to clear valuable space in their offices by getting rid of documents which have no further importance for the practical purposes of business, that in many more cases than anyone would believe who has not had actual experience of historical research such collections have real, even very great, value and importance for the student: and that our Records Preservation Section is prepared, observing any reasonable precautions which may be suggested for the safeguarding of any kind of interest that might be involved, either at once to relieve owners or custodians of the charge or to report upon such documents with a view to subsequent discussion as to their disposal.

The PRESIDENT observed that the paper was not one which invited discussion, but if anyone present wished to administer interrogations they would like to hear them.

Mr. H. NEVIL SMART, C.M.G., O.B.E. (London), read the following paper:—

THE SOLICITORS ACT, 1933, AND THE PROPOSED RULES THEREUNDER.

Although I have the honour to be a member of the Council this paper is contributed in my capacity as an ordinary member of the Society and has not been seen by any member of the Council with the exception of the President.

Two matters of far-reaching importance to solicitors have occurred since the last Provincial Meeting. I refer to the cuts in our remuneration and to the provisions of the Solicitors Act, 1933.

Of the former I will say no more than that the vast majority of solicitors have refrained from passing on any of the cuts to their staffs.

The 1933 Act is the culmination of some three years' work and while many of us are of the opinion that the Act was not necessary I for one am glad there has been so much delay because it imposes a lighter burden upon us than that we should have had to carry if the various provisions of the previous Bills had become law.

Before dealing with the Act itself it might interest members if I remind them of what happened during the three years to which I have referred.

In 1930 the Council prepared the draft of a Bill under which every practising solicitor would have been required to contribute a sum which was intended to be devoted towards reimbursing to a certain extent those who had suffered losses by defalcations. The Provincial Societies were opposed to the proposals contained in it.

Subsequently further suggestions were made as to (A) compulsory membership of the Society with a view to the appropriation of any surplus revenue resulting from the increased membership towards repayment of money lost through defalcations, and (B) the guaranteeing by an insurance company of every solicitor for a limited amount with a provision that no practising certificate was to be issued unless the receipt for the premium paid was produced.

The Provincial Societies approved of the idea of compulsory membership and a Bill to give effect to that proposal was prepared by the Council and submitted to the Annual General Meeting held on 4th July, 1930. It incorporated also provisions as to the opening of banking accounts for clients' moneys and as to the keeping of accounts. These provisions, however, were opposed by a majority of those attending the meeting.

Sir John Withers who was then a member of the Council was so dissatisfied that he wrote to the President a letter of resignation and at the same moment caused a copy of his letter to be published in *The Times*.

Sir John then introduced a separate Bill into the House of Commons prescribing the keeping of separate clients' banking accounts and of proper books of account. His Bill provided also that as a condition of the issue to each solicitor of his practising certificate he should produce a certificate from a qualified accountant that he had complied with the provisions of the Bill.

The Society's Bill and Sir John Withers' Bill were originally introduced in the House of Commons in July, 1930, but it was not possible to make progress with either of them before the autumn recess.

In October, 1930, Sir Dennis Herbert re-introduced the Society's Bill into the House of Commons and Sir John Withers introduced his Bill into that House also. Sir John Withers was fortunate in the ballot, and his Bill came on for second reading on the 23rd January, 1931, was read a second time and referred to a Select Committee. It was supported by the Solicitor-General, but he made it clear in his speech that his hope and intention were that both Bills should eventually be referred to a Joint Committee of both Houses.

The Society's Bill came on for second reading on the 20th February, 1931, and unfortunately the debate upon it was not concluded at the rising of the House on that day. In other words it was "talked out." Later attempts to secure a second reading in the House of Commons failed.

It was at this stage that the principle of compulsory membership was abandoned. It had been criticised in the debate and there is no doubt of its controversial nature.

Subsequently Sir John Withers attended a meeting of The Law Society's Special Committee on the Bills, at which representatives of the Provincial Law Societies were present. He declared himself anxious to co-operate with the Society and stated that he had no intention of pressing for a compulsory audit.

In December, 1931, Sir John Withers prepared and submitted to the Council a new Bill providing that the Council, with the concurrence of the Master of the Rolls, should make rules for the professional practice, conduct and discipline of solicitors which (*inter alia*) should provide for the opening and keeping by solicitors of accounts at banks into which they should pay all money received or held by them for or on account of clients and provide also for the keeping by solicitors of accounts containing particulars and information as to moneys received, held or paid by them for or on account of clients, and the nature and extent of the particulars and information which would have to be included in such accounts.

The Bill then provided that such rules might provide that any neglect or failure to comply with them should be deemed professional misconduct.

Clause 2 of the Bill placed as a condition upon the issue to a solicitor of his annual practising certificate that he should either lodge a statutory declaration that he had complied with the rules or produce a certificate by a qualified accountant to the same effect, or obtain from the Council an Order dispensing with the necessity of such a declaration or certificate. The clause included a right of appeal to the Master of the Rolls.

The third clause of the Bill contained a power to the Discipline Committee, in addition to their authority to strike a solicitor off the Rolls or suspend him from practice, to impose upon him a fine not exceeding £100.

The Bill was submitted to the Provincial Law Societies who at a meeting held on the 12th February, 1932, approved of those portions of Sir John Withers' Bill which were intended to empower the framing of rules for the professional practice, conduct and discipline of solicitors, including provision for keeping separate accounts of clients' moneys and intended also to place a check on the issue of the practising certificates of those who disregarded the rules. The Provincial Societies, however, disapproved of the clause in the Bill intended to necessitate the making by every solicitor as a condition precedent to the issue annually of his practising certificate of a statutory declaration that his accounts had been kept in accordance with the rules.

Subsequently it was felt in view of the fact that the Bill had become to a material extent an agreed measure, it would be advantageous if a new Bill incorporating the provisions in which there appeared to be general concurrence were prepared by the Council and introduced on their behalf.

** The Association has already among its Institutional Members representatives of banks, boroughs, city companies and other commercial institutions, colleges, county councils, deans and chapters, museums, public libraries and learned societies. It would like to have many more. It has also a considerable number of private members. The latter pay a minimum subscription of 5s. yearly; institutions pay £1 and have certain special privileges.

As a result the Bill leading to the 1933 Act was introduced into the House of Commons by Mr. Roy Bird, M.P.

The Bill passed the Committee stage in the House of Commons on the 30th March, 1933, and was read a third time in that House on the 12th May, 1933. It received the Royal Assent on the 28th June last.

In the House of Commons on the third reading exception was taken to the fact that the Bill would give the Council power to make regulations in respect of any other matter regarding the professional practice, conduct and discipline of solicitors and one member pointed out that if the Council were so empowered there would be no limit to restraints which they might impose. That member moved an amendment to strike out the words in question, whereupon Mr. Roy Bird, who was piloting the Bill, pointed out, first, that the Council are a reasonable body of practising lawyers who could not possibly be misled into making regulations of an unreasonable or impracticable nature, particularly as they themselves, fifty in number, would have to obey them and, secondly, that the regulations could not become effective without the Master of the Rolls' approval which would without doubt be withheld if any unreasonable suggestions were submitted to him.

If I were asked to sum up the effect of the Act in the fewest possible words, I should say two banking accounts, and when in doubt pay into clients' account, or—still very concisely—you must keep your clients' money in a separate account or accounts from your own office account.

Before dealing with the Act itself there are a few observations I should like to make.

First and foremost but often overlooked. No Act of Parliament can render honest a person who means to be dishonest but it can warn and to some extent safeguard against disaster the unintentional wrongdoer.

The framers of the Act and the draft rules, bearing these fundamental axioms in mind, have been at pains to minimise as far as possible any disturbance of usual reasonable and thoughtful professional practice. It is believed (and the letters the Council have received indicate this) that already great numbers of solicitors keep two or more banking accounts and keep their clients' moneys separate from their own.

It is obvious, however, that the only person who can draw upon the various banking accounts is the solicitor himself, and that the Act and proposed rules cannot in fact be more than a possible deterrent. Breach of the rules, however, entail heavy penalties.

Solicitors by the very nature of their calling are bound to secrecy concerning their clients' affairs with the result that the Press have little or no opportunity of reporting the good and useful functions we perform.

Our misdeeds, however, are given considerable prominence.

Take the case of a solicitor who is convicted of misappropriation. First the police court proceedings are reported, then the trial at the Old Bailey or Assizes, the striking off the Roll by the Discipline Committee, and finally, more often than not, his public examination in bankruptcy.

The public who perhaps do not read the reports very carefully may not realise that all four reports relate to one solicitor.

Again solicitors are human beings and are just as liable to err as anyone else. Their opportunities for wrongdoing are greater than those of most people and they can claim that in no other class will there be found a lower percentage of default having regard to the incidents which are generally the cause of downfall. I refer to speculation, intemperance, and all the other temptations which beset man from the age of twenty-one onwards.

On the other hand the public never hear of the number of times clients are helped in their time of trouble and often the only satisfaction or remuneration the solicitor has is the feeling that he may have made his client's burden a little lighter.

Do the public realise that each year over 5,000 poor persons have had their cases dealt with by counsel and solicitors for no fee or reward of any kind and that the number is rapidly increasing ? Time after time have I had to correct the erroneous impression in the minds of well-to-do clients as well as poor persons that solicitors conducting poor persons cases are paid by the Government.

There are some very significant facts regarding the few cases of default. I say few because the average is roughly one in a 1,000. The errors in the beginning of the downfall have been quite small and often due to carelessness in not keeping proper accounts. As Mr. Roy Bird said in the House " I believe that, if a solicitor had two accounts, as a great number of them already have, he would not draw money which was earmarked for his clients' account. But a solicitor, perhaps a young fellow starting in practice with small means, who has only one account and feels the necessity for drawing money, possibly goes to his cashier or looks at his account and finds that he has, shall we say, £506 in it. He promptly draws, say, £50, whereas if he had two accounts he would have seen that, instead of there being £50 of his own money, £500 was his clients' money and only £6 was his own money. If the fact had been made clear to him from an inspection of two accounts, he would not have taken the first step on the way to defaulting in regard to the accounts of his clients."

There were some advocates of an audit, but no audit in the world will show what is *not* in the books. The deliberate wrongdoer will not hesitate to omit to make entries, Act or no Act, but I do feel that he will have a very effective warning if he sees the words " clients' account " staring him in the face on the cheque he is about to sign.

Another point I desire particularly to emphasise, both in the interests of the profession and that of clients, is that it is most desirable that every solicitor should have one or more partners.

The risk of error is considerably reduced because partners can check one another at any time, and it is of real advantage to the client to know that his solicitor can obtain from his partner or partners confirmation on any point of the advice he is asked for. We are, in a sense, trustees of our clients' interests and often of their money. The court rightly looks with disfavour on a sole trustee.

Recently a solicitor with a considerable practice had to retire owing to ill-health and his practice was purchased by a firm in which there were six partners. Time after time the clients expressed genuine relief at the thought that if one partner were away or should die there were others who would always be available to look after his affairs, whereas with the solicitor practising alone they were wondering what they would do were he to die.

The number of defaulters is very small, but I believe it would even be smaller if it were customary for solicitors to take partners. In support of this view I am informed that in over 97 per cent. of the cases which have come before the Discipline Committee since its formation in 1919, the solicitor complained of has had no partner. In fact during the fourteen years which have passed since then only five solicitors struck off were in partnership.

Our clients have the greatest possible faith in us, but I feel that such faith is not quite so evident in those who have never employed a solicitor, and that this is because the public generally are taught to fear us owing to the curious method we employ in making up our charges.

Such is the bogey of costs that time after time you will see hoardings outside building estates bearing the words " No legal charges " or " No law costs." The unsuspecting Edwin or Angelina does not stop to realise that the price asked for the house includes legal charges and the vendor's profit !

The profession is affected by and has to move with the times—an age of mass production, not of individual craftsmanship. The public unfortunately do not realise what it costs in time and money to enter our profession or how hard we have to work in order to render ourselves competent to perform our duties and then to earn our living.

It is my belief that the average earnings of solicitors in England and Wales is in the neighbourhood of £400 a year. We know that many earn more than this figure and, therefore, there are numbers whose incomes are below £400. It is rather hard to marry and educate a family adequately on the figures I have quoted.

For that reason alone we should be glad that in reality the Solicitors Act, 1933, and the proposed rules do not increase our burdens.

And now may I refer to the Act itself. For convenience a copy has been printed and will be found together with the draft rules at the end of this paper.

Section 1 enacts that the Council shall make rules which shall not come into operation until they have been approved by our father-in-law as he so described himself in the House of Lords—the Master of the Rolls who understands our difficulties and does an enormous amount of helpful work for us.

Section 2 deals with failure to comply with the rules and enacts that any person may complain to the Discipline Committee. In practice I believe generally speaking complaints will be made to the Council. The Professional Purposes Committee will then investigate the complaint and not until that Committee has decided that there is something really to complain about will they allow the case to go to the Discipline Committee. This procedure to my mind is desirable as it happens not infrequently that complaints are made under a misapprehension and it would result in hardship if every case were to be referred direct to what is virtually a supreme tribunal before some preliminary investigation had been made.

The Discipline Committee in addition to other powers may impose a penalty up to £500. Originally it was provided that this penalty should be paid to the Society but now it is to go

to the Crown and really we were all relieved when the alteration was made as it avoids any suggestion that the Society can benefit by the provision. The figure of course is an outside one.

Section 3 empowers the Registrar of Solicitors to refuse to grant a practising certificate to any solicitor who has not paid any penalty which may have been imposed upon him or who has not paid any costs he may have been ordered to pay.

Section 4 exempts public officers from the provisions of the Act.

Sections 5 and 6 exempt solicitors who are clerks of the peace, clerks to county councils or who are in whole-time employment as officers of a local authority or of statutory undertakers.

Section 7 exempts the solicitor of the City of London from the provisions of the Act.

Section 8 is known as the bankers section, and is all-important. In non-technical language it means that the banker cannot recoup himself from or resort to the clients' account for any personal liability the solicitor may be under to the bank. I am assuming that in the event of the solicitor's bankruptcy any funds in the clients' account other than money actually due to the solicitor will not be included in the assets belonging to the solicitor's estate. This will be of paramount importance to the clients and is certainly a step in the right direction.

And now I come to the draft rules.

On the whole they have been favourably received by the profession and the bulk of the criticisms have been of a constructive and helpful nature. One correspondent went so far as to enquire the names of the authors as the rules were identical with his own and he thought they might have been copied. But none the less there will have to be a number of drafting amendments.

For example, in r. 1, which prescribes the books and accounts which are to be kept, and the receipts from or on account of clients which are to be recorded, I think it would be better to use the word moneys instead of receipts as we use the word money in r. 2.

Rule 2.—There appears to be some misapprehension in the minds of some solicitors as to whether there may be kept more than one client account. The answer, as I view the matter, is that there may be as many client accounts as the solicitor likes. I hope that they will be called client account 1, 2, 3 onwards, or client account A-Z. Client deposit account, etc. So long as all cheques on client accounts bear the word client, the required purpose will be achieved and all concerned will be notified and assisted.

Rule 3.—Under this rule which limits the moneys which may be paid into a client account it will, I assume, be permissible for a solicitor to pay into the client account moneys received on account of costs notwithstanding the provisions of r. 6 (*e*) which, by exempting such moneys from the compulsion expressed in r. 3, permits him to pay money expressly paid on account of costs into his own account This is the practice with a very large number of solicitors who keep a clients' account or accounts at the present time.

I believe, too, that on further consideration, there will be no objection to splitting a cheque by instructing the bank to credit that part which represents costs to the solicitor's own account.

With regard to r. 4, which limits drawings from client account, it will be desirable, I think, to amend it so as to enable a solicitor to draw money out which represents a liability of the client to the solicitor as distinguished from a debt represented by delivered bill of costs. A solicitor may do much work and be entitled to a payment on account of costs although he has not delivered a bill of costs.

Rule 5, which empowers the Council to inspect books, has caused a lot of uneasiness in the minds of many. I am quite sure that there is no need for this anxiety because the Council would never exercise their power except after the most careful consideration of each particular complaint.

After all, they are aware of their responsibilities in this connection, and are ever mindful not merely that they hold their powers primarily to protect solicitors but also that the relationship between a solicitor and his client is most confidential. Another matter which will require further consideration is that, technically speaking, no provision is made for dealing with moneys which are not strictly clients' moneys, for example, money received by solicitors who are agents for insurance companies or held by solicitors as stakeholders. A great number of solicitors are agents for insurance companies but these companies do not come under the definition of a client under the 1932 Act.

In my view the aim of the Act and rules is to provide that the solicitor shall keep in a separate account or accounts all moneys which cannot be regarded as his own and that he shall never use one client's money for the purpose of another without express permission of the client whose money it is proposed to use.

There are some people who will tell you they never could do figures. This Act and the rules will help them from making errors through carelessness.

We are an honourable profession desirous of giving of our best to our clients and we wish to do everything which will encourage the people of this country to have complete confidence in us and to avoid doing anything which might cause that confidence to be shaken.

We all hope that the rules when published in their final form, sometime in 1934, will have the desired effect, and I feel if the present loyalty which is shown to the Council is maintained that the Act and the rules will not have been in vain.

Mr. E. I. WATSON (Norwich) remarked that the banks distinguished between a deposit receipt and a deposit account. He asked whether a single sum put on deposit, for which a receipt was taken and which was not regarded by the bank as an account, was an account within the meaning of the rules.

Mr. SMART replied that, in his view, this was a deposit account. There would certainly be one in the solicitor's book and in the banker's account. The difficulty would be overcome when the rules were finally published.

Mr. BARRY O'BRIEN (London) confessed that he had not anticipated hearing any more about what he regarded as the annual bogey of the Solicitors' Act. He did not know whether the paper was to be regarded as in any sense an apologia of the Council for the existence of this Statute, but he was gratified to observe in the first page of the paper the suggestion that the Act was not necessary. With this opinion he cordially agreed. Mr. Smart had referred to the criticism in the House of Commons complaining that the Council might make rules regarding professional practice, conduct and discipline without any restrictions. Mr. Roy Bird had dealt with the criticism in a quasi-satisfactory manner. No member of the Society would doubt the good intentions of the present Council in this matter, but the Society must look to the future. No one could say for certain that outside pressure, political pressure, the pressure of a possible Socialist administration might not be brought to bear on a future Council to make rules which in ordinary circumstances they would not consider or condone. Were the powers under this Act ever used harshly by the governing body, or in such a manner as to inflict hardship on the small solicitor, its action would justify the deepest resentment throughout the profession.

Mr. O'Brien was convinced, he said, that accounts never proved anything—or, rather, that they might be made to prove anything or absolutely nothing. No provision in the Act would ever prevent a wilfully dishonest solicitor from being dishonest. The optimists thought that the Act would be a deterrent to some potential wrongdoers; he hoped that it would. He hoped also that Mr. Smart, in declaring a decided preference for partnerships, was voicing his personal views and not suggesting any possibility that the Council would at any time force solicitors to take partners. It would be equally reasonable to order all the profession to cease to be bachelors. Partnership was in fact even more important than marriage, because whereas a man only met his wife in the evening, he was with his partner all day. Some men were temperamentally unsuited to partnership, and a one-man business had the advantage that when a question had to be settled the solicitor had to give the casting vote.

Few members of the public, he thought, realised how small was the income of the average solicitor compared with his heavy labours and responsibilities. Whereas a member of the Bar, by rising in his profession, might command higher fees, a solicitor, no matter how eminent, was still bound to the present antiquated and grotesque system of remuneration.

The PRESIDENT affirmed that the Council welcomed criticism. In answer to Mr. O'Brien, he declared that it was to the poor solicitor, the miserable fellow who, often because he and his children were hungry, took money which was not his, that the Discipline Committee tempered its justice with mercy. The suggestion that the Committee could ever be hard on such a man was completely unfounded.

Mr. W. THORPE (Ross-on-Wye) said that the Rules merely laid down that the separate account was hereinafter designated "client account." He failed to find any direction that in every case the separate account should be labelled or carmarked "client account," and the Rules therefore failed in their object.

Mr. E. L. WALLIS (President of the Hereford Law Society) suggested that simple and efficient bookkeeping was an important safeguard against the downfall of a solicitor. He also saw disadvantages as well as advantages in partnership. He asked whether a solicitor with 500 clients had to keep 500 separate bank accounts. (Mr. Smart: No.) He could not appreciate the advantage of marking a cheque "client account." His own banker was satisfied with him and gave him a good character; surely the confidence of his banker

was the great test of a solicitor's reliability. Mr. Wallis's main account was, he said, his clients' money; he asked whether he would satisfy the Rules by keeping that account and simply marking the cheques "client account." If he had money to invest and no investment ready, he put it on deposit. It was the universal practice to pay in and draw out the money of all clients on the same account, but the paper rather suggested that only that money should be drawn out which was earmarked as the money of the particular client.

Mr. G. E. HUGHES (Bath) regretted that the Council had not taken the opportunity of abolishing what he described as the iniquitous solicitors' tax. The administration of the present Act would impose expense on the Society, and he could not see why the tax should not be paid exclusively into the funds of the Society to meet this expense. Although the Council was already hard-worked, he advocated the formation of a new "advisory" committee to assist the man who suddenly found himself faced with a difficult situation. Members of the profession in trouble should be able to go to Bell Yard first and not last. Provincial men had sometimes appealed to their local societies, and one society had had to pass the hat round on three separate occasions to help the same member. It would be far better if such cases could be assisted in London before the trouble had advanced too far. Finally, he said, the profession had been singled out by this measure, and he hoped that Parliament would one day turn its attention to house-agents, accountants and stockbrokers on similar lines.

Mr. H. J. H. SAUNDERS (Evesham) complained that the practice by which solicitors paid all moneys they received direct to the client's account was sound but not authorised by the Rules. The present paper had been prepared by a member of the Council and would be reported in the press. It would be very unfortunate if the public received the impression that it was the view of the Council that solicitors ought to practise in partnership, and that it was the official opinion of The Law Society that partners were more to be trusted than those who carried on business alone. If one partner dipped into a client's money, his fellows had to put the matter right.

The PRESIDENT welcomed the opportunity of saying that all papers contributed by members of the Council stood on the same footing as papers of other members. The only person who saw them before they were finally selected was the President. If Mr. Smart really meant that a partner was necessarily an insurance against dishonesty, he disagreed with this view. He agreed with Mr. O'Brien that if the profession had reached the point at which a solicitor could not take care of his private affairs without having a partner to watch him and see that he did not cheat his clients, a very bad day had come for the profession.

Sir ROGER GREGORY declared that the Act had not been passed owing to pressure from outside. Good or bad, it had emanated from the Society and was actuated by a strong desire to see that those aspersions which had been wrongly cast on the generality of the profession should be ended, and to keep in order a house that was in order already. If the Council and the Discipline Committee had their hands strengthened in dealing with the isolated cases which brought discredit on the profession, there was no sweeping away of the dignity of the profession. On the contrary, its dignity was increased by its determination to spare no pains to see that its powers of dealing with such cases were strengthened.

In answer to Mr. H. C. DRYLAND (Reading), Mr. SMART replied that the splitting of cheques was an almost universal practice. It would be no safeguard to prevent this splitting, and would impose a burden without any corresponding advantages.

Mr. A. W. DREW (Isle of Wight) said that a large number of helpful letters had not yet been dealt with. When each Rule had been considered in the light of all the criticisms, the Rules would be published in amended form.

Mr. HAROLD MARTIN (Liverpool) remarked that some bankers had a strong objection to paying a cheque into two separate accounts. Rule No. 1 prevented any money from being paid in except moneys belonging to a client. According to Rule No. 2 an account designated as a separate account must be opened for every money received on account of the client. The Rule read as though a solicitor would in future have to open a separate account for each client. He himself kept all clients' moneys in one No. 2 account, splitting the sums in his own books.

Sir HARRY PRITCHARD (Council) saw no need for any anxiety on this point, but undertook that the Rules should be altered if they bore this meaning.

The PRESIDENT, in reply to Mr. Wallis, defined "clients' moneys" as moneys which were not the solicitor's. Everyone knew quite well what money was his and what was not. He regretted that, if this explanation failed to satisfy Mr. Wallis, he could give no better one.

Mr. WILLIAM BRAMWELL (Preston) put the case of a solicitor who had a No. 1 account for his own money, a No. 2 account for his clients' money, and a No. 3 account for insurance money. Deposit accounts in the client's name read "John Jones." Was it necessary, he asked, to have the word "client" in front of the "No. 2 account" or any other account except No. 1?

The PRESIDENT said that the Council had not given a definite decision on this point. It would, he said, be seriously discussed before the final arrangement.

Mr. GEORGE MALLAM (Oxford) read the following paper:—

INCOME TAX.

If one of us were held up on the highway and robbed of one-fourth of his possessions, even if he were a moderate man, he would express justifiable indignation. When the same thing is done by the State by levying taxes, although we may acknowledge the necessity, the conditions of such appropriation will, nevertheless, be scrutinised with jealousy.

The whole subject of the assessment of income and the imposition of tax is sufficiently complicated in itself; but, so far as concerns us, complication has been aggravated by a yearly series of Finance Acts, with cross references, and an attempt to consolidate made in 1918; and the result is little short of confusion. Nor has confusion been lightened to any great extent by the accumulation of case law affecting the proper construction of this legislation.

From the very outset the taxpayer is prejudiced by the overwhelming weight of the fact that he is involved in controversy with the Crown. This fiction, for it is nothing else, is, it is submitted, derogatory to the Sovereign, and unfair to the subject. It is a fiction that the Revenue boosts as reality. It permeates its whole organisation, until each inspector who manages one of the local taxing offices insists on being addressed as "H.M. Inspector of Taxes." Where the majesty of the Crown is applied to overbear and browbeat unfortunate subjects its misuse is obvious, and the users should be deprived of that means of attack. After all, the Revenue is quite as much subject to legislation as other people; and *qua* litigant, the Revenue should be placed on an equal footing, in all respects, with other parties.

These Finance Acts, nets thrown to encompass such a diversity of circumstances, are so involved in verbal mystery as to form a language of their own. In the laudable object of preventing evasion by unprincipled persons, the zeal of the Revenue has too often resulted in the oppression of those who are honest.

The anomalies lurking in this position are the subject of continual exposure in the press. One person wrote, some years ago, to state that to establish his firm's case in the courts cost £10,000. But such is the general selfishness, and consequent want of corporate sympathy and activity, that little or no attempt to gain relief has been made. The instinctive shrinking that each of us has from an investigation into his personal and private affairs is a strong cause of ineffectiveness. In such circumstances, propaganda is required to encourage and inspire the public to action.

The main object of this paper is to point to the substantial injustice which those who pay sums up to, say, £300 yearly in income tax have to suffer; and it will not be disputed that they are the majority of income tax payers. This injustice arises from the fact that they are bound to accept the assessment of the Revenue without effective challenge, owing to the cost and delay of proceedings by way of appeal. Generally speaking, it does not pay in such cases to appeal, whatever the result may be.

The following suggestions for ameliorating the position just referred to are put forward for discussion.

It will have been observed what a slender use the Revenue makes of the opportunities given, when annual Finance Acts are being passed, to correct any errors that experience brings to light. Surely, it would be fairer to the taxpayer that the Revenue should suspend action against him for a year, and by necessary amendment in the ensuing Act remedy the difficulty by clear expression of its intention, rather than force litigation on unfortunate taxpayers, which turns on the construction to be placed on faulty legislation, for which the Revenue, and not the taxpayer, was responsible. In this way, much costly litigation might be avoided.

Again, a substantial simplification of procedure and reduction of the cost of litigation would be effected by assigning all proceedings, causes and disputes in connection with income tax, where the amount of the tax in dispute does not exceed, say, £300 in any year, to the county court; which might be given in such matters (as now it has, for instance, in

bankruptcy), all the powers of the High Court. Rules should be made to provide for any necessary change or amendment in ordinary county court procedure to accompany such a statutory change. In addition, it is suggested that power should be given to the court, if so minded, to order the trial to be taken *in camera*. These suggestions would avoid the long procedure of the special case provided for in the Finance Act, 1918; found often to be extremely unsatisfactory in practice, and liable to delay, expense and obstruction. There would also be saved all the difference between the county court and the High Court scale of costs; and the time occupied in disposing of cases would be greatly diminished.

No doubt the changes suggested will meet with opposition from vested interests, and some others. The balance of convenience, however, it is claimed, belongs to the taxpayer. Among the objectors might be county court judges, who, at the present time, having regard to the additional burdens placed on them, are underpaid. If, however, the Revenue as regards litigation is placed on the same footing as any other litigant; and it is restrained from appeals beyond the judgment of, say, one Court of Appeal where the construction of any Finance Statute or Rule is involved, the suggested amendments would, it is contended, result in substantial saving of both expense and time. It is also suggested that the Crown should be bound by agreements made on its behalf by its servants and agents, to the same extent as the subject.

The following considerations point to the inadequacy of the tribunals, as at present constituted, to hold the scales of justice fairly and steadily as between the State and the individual.

The extraordinary pressure exerted by the Crown in the imposition and exaction of taxes has to be borne in mind. It is a party to every application that is made to these tribunals. If, for instance, in any case the Commissioners should say "On these materials we think the Inspector should come to terms, and agree," and the response made is "My instructions are to ask for a ruling in favour of the Crown," what is the position? This apparently inoffensive phrase, "My instructions," etc., is in reality placing a pistol at the heads of the tribunal; for, being interpreted, it means, "Your decision, if against us, will be fought out through each court up to the House of Lords. Such a decision will involve you in all the trouble of settling the form of special case in which each of the parties will endeavour to outstate the other. If, therefore, you decide against the Crown, you expose the respondent to the cost of litigation in all these courts if he fails to uphold your judgment. By deciding for the Crown you will avoid all this trouble and responsibility, because the respondent will never appeal, on the ground that the risk of the costs involved is too great, to say nothing of the time and suspense; and you will avoid the certainty of forcing the litigation referred to on the respondent, which would follow from a judgment in his favour."

The repetition of such pressure, and particularly when the State, for its own purposes, gives the screw an extra turn or two to meet its necessities, requires the calibre of much greater guns to resist than can be brought to bear by such a tribunal as General or Special Commissioners. It is submitted that, in such circumstances, such tribunals are inadequate and impotent; and that no tribunal short of His Majesty's judges can be relied on to hold the scales of justice firmly, fairly, independently and adequately between the subject and the Crown in matters of taxation.

When it is realised that probably more than one-quarter of the total income of the whole taxable community is involved in the imposition and payment of taxes, it will then be generally recognised that the amount at stake entitles the taxpayer to an adequate and independent tribunal.

RIDER.

Himley Estates Limited and Another v. *I.R. Commissioners* [1933] 1 K.B. 482, Lord Hanworth, M.R.:—

"At the outset of our judgment in this case I should like, on behalf of my colleagues and myself" (Lawrence and Romer, L.JJ.) "to associate myself with the words which were used by Rowlatt, J., when he pointed out that 'this clause calls loudly for re-drafting in the interests of precision.' That observation is not intended to make any reflection upon the original draftsman of the Act; we all know the heavy task that is laid upon draftsmen, particularly at this time when the output of bills and statutes is so large. It may well be that the clause was very different when it left the draftsman's hands; but no one can look at the clause without seeing that it needs revision, and that as it stands it is almost hopeless to construe. I would not have used these terms again had it not been that these observations could have been applied to the case we decided yesterday, and a number of cases which come before us, particularly on the construction of the Finance Acts."

Inland Revenue Commissioners v. *Pakenham* [1928] 1 K.B. 145, Scrutton, L.J.:—

"In 1927, the assessment for 1916 has not yet been finally determined, and five years were taken to state the special case. No satisfactory explanation was offered to us of the delay."

Kensington Income Tax Commissioners v. *Aramayo* [1916] A.C. 225:—

Lord Wrenbury: "My Lords, this case affords a striking illustration of the involved and almost unintelligible expression of the law contained in the Statutes relating to Income Tax. It is difficult to reconcile one section with another. The same word is used here in one sense and there in another. There is no sequence or orderly arrangement of matter. Your Lordships will, I hope, agree with me in thinking that a taxing statute, particularly one upon which taxation to so large an amount as is now collected ought to be expressed in plain language, free from the defects to which I have pointed . . ."

Lord Loreburn: "I have studied these Acts very closely, and have listened to the protracted arguments, and the conclusion at which I have arrived is that no one can give any answer to this question, either in the affirmative or the negative without doing violence to the language of one or more of the sections . . . I regret to say that in this respect the statutory language of the different Acts is not coherent. You may strain the language to mean either the one thing or the other. You must strain it to arrive at any conclusion."

The PRESIDENT thanked Mr. Mallam for bearing eloquent and independent testimony to two matters he had mentioned in his address: The necessity for a separate appeal, and the incomprehensible unintelligibility of the Finance Acts.

Mr. L. G. WOOLDRIDGE (Daventry) asked whether the Council had reached any agreement with the Revenue authorities concerning the infamous form for the return of moneys received by solicitors on behalf of their clients. He had been pressed many times by his local inspector; he had held off enquiries for some months by saying that The Law Society was taking up the matter with the authorities, but the inspector had now begun to agitate again. Could the Council give any opinion on what income should be stated on this form?

The PRESIDENT said that the statute was plain on the face of it. Within the next week he hoped, in company with another member of the Council, to meet a high official of the Revenue and represent to him the gross injustice which this section, if strictly enforced, might bring about. There were two arguments against it, largely based on sentiment, but sentiment was in some matters very important. Solicitors were men on whom lay a particular duty of silence and secrecy, and the section compelled them to disclose their clients' interests to the authorities. Moreover, to comply with the section would involve them in a particularly laborious and difficult task. Nevertheless, any concessions would be from the generosity of the authorities; the section itself was plain, and there was no hope of much relief until the law was altered.

Mr. W. BRAMWELL (Preston) asked whether a solicitor owed a duty from courtesy or on other grounds to answer the innumerable questions with which the inspector bombarded him.

Mr. H. WILLS CHANDLER (Basingstoke), in answer to the President's request for specific instances, suggested that when the inspector was told the date of repayment of a principal of £500, he proceeded to put a number of private questions which the solicitor found very difficult to answer.

Mr. C. C. DUNCAN (Dundee) suggested as another question whether a security was heritable or movable.

The PRESIDENT gave as the general view that the solicitor must disclose this information.

Mr. CHANDLER then suggested that inspectors were not always as zealous as Mr. Mallam had stated. On the death of a mortgagor whose mortgagee was one of his clients, it had appeared that the mortgagor had paid none of the tax which he had deducted from his mortgage. He had pointed out to the inspector that the name and address of this mortgagor had been in his office for seven years on the return. The inspector had replied that he had not the staff at his disposal to go through those lists and find out whether the money had been paid or not.

Mr. W. RUTLEY MOWLL (Dover) noted that the author was very dissatisfied with the Income Tax Commissioners, the tribunal which stood between the Revenue and the subject. As he happened to be one of these gentlemen, he desired to say that they did their utmost to give fair decisions, and that in condemning them the author was condemning his own brethren.

Mr. R. A. PINSENT (Birmingham) held that if questions of income tax law were decided by county court judges all over the country very conflicting decisions would be given. The High Court had attached so much importance to unanimity that all

income tax questions were referred to one judge. He knew of no tribunal fairer than that of the Special Commissioners; they had to judge questions of fact, and he had found them not only fair but humane. His great grievance was with the authority, the Chancellor of the Exchequer, who applied to the collection of income tax the principles of war: offence and defence, counter-offence and counter-defence. When surtax had been evaded on a large scale by the formation of private companies, who had not divided their profits, the Revenue authorities had devised an "awful" section to catch them. A company which did not distribute a certain amount of its income was taxed not on what it ought to have distributed but on the whole of its distribution. This taxation by penalty was one of the matters in which the law most needed alteration. The public needed from the Revenue simplicity, candour, and, if it were to be had, a little sympathy.

Mr. MALLAM replied that his experience of the county court, gleaned over thirty-six years as an official receiver in four different courts presided over by a dozen different judges, had convinced him that their decisions, taken broadly, were as fair as any decisions he had ever had in any court.

Mr. WALTER C. S. CHAPMAN (London) said that one of the worst difficulties could be overcome if when the statute was absolutely unintelligible it could be referred either to Parliament or to the draftsman to say what it meant, and that the interpretation should not have to be determined at the expense of the litigant.

The PRESIDENT said that the Society would be very grateful to Mr. Chapman if he would suggest some method of procedure.

Mr. E. W. HUDSON (London) read the following paper:—

THE LAW RELATING TO ELECTRICITY.

I should like to explain at once that in reading this paper I do so in my own personal capacity as a member of The Law Society, and that anything I say in no way conveys any official imprimatur or binds those for whom I act.

I deliberately chose a wide title, in order to give an opportunity of roaming around and discussing one or two points which I think might interest you. It is obvious that in the limited time afforded me I cannot explain to you the whole and rather intricate subject of the law relating to electricity. Indeed, electricity itself is a somewhat intricate thing and not easy of all men to comprehend. Lord Kelvin once asked one of his pupils to tell him exactly what electricity was. The pupil said: "I am so sorry, sir. I knew it when I came into the room, but I've forgotten it now." To which Lord Kelvin replied: "That is a great misfortune. You were the one man in the world who knew and now you don't."

Its technical intricacies are beyond me, and so, when I was asked recently by a prominent person in Whitehall to explain what ohms were, I said that it didn't mean "On His Majesty's Service." In case any of you do not know what an ohm is, I would refer you to an Order in Council of 10th January, 1910, where you will find it clearly and succinctly defined as being "the resistance offered to an unvarying electric current by a column of mercury at the temperature of melting ice 14·4521 grammes in mass by a constant cross-sectional area and of a length of 106·300 centimetres."

The first general impression that occurs to me is that with the rapid increase of an industry of great national importance, it is absurd that the foundation of the law relating to electricity should rest upon the Electric Lighting Act of 1882, which incorporates and adapts, for the purposes of that Act, numerous provisions of the Gasworks Clauses Acts of 1847 and 1871. The Act of 1882 was passed when electricity was in its infancy. It was called the Electric Lighting Act because electricity was then only regarded as a new and interesting source of illumination.

It is often said, and quite rightly, that the laws of England are so wisely conceived that they adapt themselves readily to changing cir umstances as science marches on; but I think the time has now come when, at an early date, a consolidating Bill should be enacted which contains the whole code of the law relating to electricity.

My views on this point were clearly put by Omar Khayyám many years ago:—

> "Ah Love! could thou and I
> with Fate conspire
> To grasp this sorry Scheme of
> Things entire,
> Would not we shatter it to
> bits—and then
> Re-mould it nearer to the
> Heart's Desire!"

As a matter of record you will find that the succeeding enactments relating to this subject are the Electric Lighting Act, 1888, the Electric Lighting (Clauses) Act, 1899, the lectric Lighting Act, 1909, the Electricity (Supply) Act, 1919—and here you will notice the significance of the change in the title of the Act—which indicates quite clearly that by that time electricity had been recognised as an essential prime mover in industrial work. This was followed by the Electricity (Supply) Act of 1922 and subsequently by the Electricity (Supply) Act of 1926, which established the Central Electricity Board.

Subsequent short Acts have been carried into effect which deal with questions of compensation to displaced employees, so that the citation of the Acts should now be the Electricity (Supply) Acts, 1882 to 1933 (which does not include the Electric Lighting (Clauses) Act of 1899).

A Bill is pending before Parliament at the moment in connection with electricity, introduced by the Lord Falmouth and under the able guidance of Sir Harry Pritchard. It has passed through the House of Lords and is now on its way to the House of Commons. I think it is a non-controversial Bill, and a useful one from the point of view of codifying in a general Bill numerous provisions that have been given effect to in Private Bills. It seeks to—

(1) Remove the restriction contained in s. 13 of the Electric Lighting Act, 1882, consequent on the decision in the case of *Andrews* v. *Abertillery Urban District Council* [1911] 2 Ch. 398 (C.A.), where it was held that if there is no person liable to repair a private street and capable of giving consent under the said s. 13, the authorised undertaker cannot break up such street even with the consent of the Electricity Commissioners.

(2) Provide that a consumer shall not without consent use electricity supplied for power purposes for lighting.

(3) and (4) Give power to cut off a supply where charges are not wholly paid and to recover the cost of cutting off.

(5) Enable the recovery of charges due for electric fittings.

(6) Extend the powers of s. 24 of the Electric Lighting Act, 1882, as to the entry of premises.

(7) Enable undertakers to use a transformer for the purpose of supply to consumers other than the consumer for whom the transformer was originally supplied.

(8) Authorise the acquisition of land for sub-stations, with other miscellaneous provisions relating to the attachment of brackets to buildings; determining stand-by supplies; bye-laws, apparatus and fittings; the prevention of the improper use of electricity, and the supply of electricity by agreement (as to which see *Morris & Bastert, Ltd.* v. *Loughborough Corporation* [1908] 1 K.B. 205).

I will deal later with a few points which have recently provoked considerable comment and criticism, such as the erection of "pylons" and the vexed question of wayleave rentals.

It seems to me convenient to digress for a moment here, in order to try and clear up a point which appears periodically to confuse both the lay and the technical press, and that is as to the relative functions of the Electricity Commissioners, the Minister of Transport, and the Central Electricity Board.

The position is really quite simple. The Electricity Commissioners were appointed under s. 1 of the Electricity (Supply) Act, 1919, for the purpose of promoting, regulating and supervising the supply of electricity for Great Britain. Under s. 39 of that Act, it was provided that the Electricity Commissioners should be solely responsible to the Minister of Transport, and under his direction should carry into effect the powers and duties conferred upon them by that Act. By the same section it was provided that the powers of the Board of Trade, who had hitherto been responsible for electricity, should be transferred to the Minister of Transport, and that the Minister of Transport should refer to the Electricity Commissioners, for their advice, all matters connected with the exercise and performance of the powers thus conferred. To this there were two exceptions, which provided that in the case of the appointment of the Electricity Commissioners and where the Minister was acting in an appellant capacity, he should not seek the advice of the Electricity Commissioners.

The position so far is that the Electricity Commissioners advise the Minister of Transport upon all matters except those to which I have referred before, and except in certain cases arising under the later Acts where powers are conferred upon the Minister, *eo nomine*.

The Central Electricity Board was constituted under the Electricity (Supply) Act, 1926. Section 2 of that Act defines the general powers and duties of the Board and I think that it may be fairly summarised as indicating that the general powers of the Board should be the duty of supplying electricity to "authorised undertakers" in accordance with the provisions of that Act. For this purpose the Board were authorised to construct what is commonly called "the grid." Their task in that respect is now almost completed, and from being originally a constructional authority they will function in the

future as suppliers of electricity in bulk. I am convinced that their activities in this respect will eventually result in a greatly lowered average charge per unit to consumers of electricity throughout the country.

You will appreciate therefore that the Central Electricity Board is an independent body which, although established by Parliament, is not directly responsible to Parliament in the same way as the Electricity Commissioners are through the Minister of Transport.

The only control that the Electricity Commissioners have over the Central Electricity Board is that the approval of the Commissioners is required in connection with the raising of capital sums by the Board, and a few technical matters in which the Commissioners have jurisdiction over all authorised undertakers. Apart from this neither the Minister of Transport nor the Electricity Commissioners have any responsibility for the operations of the Central Electricity Board.

I hope I have made the position clear to you. From time to time representations are made that these three separate bodies should be merged into one so far as electricity is concerned. I believe that to be impossible, because the Electricity Commissioners are there to advise the Minister (subject to confirmation by Parliament) to give statutory effect to their Acts and Orders, and the Board is there to construct and to function as bulk suppliers of electricity on a national basis, and for that purpose are authorised undertakers (see Section 20 of the Electricity Supply Act, 1926).

It seems to me singularly appropriate that the Provincial Meeting of The Law Society should take place this year at Oxford, because I know very well what an interested and intelligent observation Oxford has kept upon electricity matters. I referred before to a Bill which is pending before Parliament at the moment, in which power is sought to attach to buildings brackets for the purpose of carrying electric lines. It is conceivable that in certain rare circumstances, and with the august approval of H.M. Commissioners of Works, and other official bodies, it might even be possible to attach a bracket to an ancient monument. But I would like to reassure Oxford that there is no intention of using this section so as to enable authorised undertakers to affix brackets to the persons of learned dons.

As regards the question of the erection of "pylons" (a tiresome word which in this connection is an Americanism fostered by some inaccurate journalist). It has given rise to a great deal of newspaper objection, but in reality the noise produces very little wool, to adapt freely a French proverb (*beaucoup de bruit, peu de la laine*). I am quite sure that the Central Electricity Board, which is responsible for the erection of these "pylons," is most careful and conscientious in seeing that no public or private amenities are unduly interfered with. The Central Electricity Board retain the services of that very distinguished architect, Sir Reginald Blomfield, who advises them upon matters relating to the correct siting of their transmission lines and the best way of camouflaging their "pylons" where necessary.

This question of the law relating to electricity necessarily gives rise, because of Special Order procedure, to which I refer later, to the question of delegated legislation or, as Lord Hewart of Bury, the Lord Chief Justice of England, prefers to call it, "the New Despotism." I have been re-reading his book under this title, which was published in 1929. In one chapter, which he cheerfully calls "Administrative Lawlessness," he says, amongst other things :—

> "The public official, as has been observed, may, and often does, decide without any evidence at all, and he may act on *ex parte* statements, made by one party without anything to support them, which are never brought to the knowledge of the other party, so that he has no opportunity to controvert them. Is it too much to say that such proceedings are a mere travesty of justice? It is also essential to the proper administration of justice that every party should have an opportunity of being heard, so that he may put forward his own views and support them by argument, and answer the views put forward by his opponent. More than that, it is of great importance that all proceedings should be held in public, so that the public may know what is being done, and be able to judge whether it is really justice, or injustice, that is being administered, and also have a guide to their own conduct. The departmental policy of secrecy, which is inveterate, is in itself sufficient to condemn the system under which the public departments act as tribunals to decide disputes of a judicial nature . . ."
>
> ". . . Save in one or two instances, none of the departments publishes any reports of its proceedings, or the reasons for its decisions, and as the proceedings themselves, if any, are invariably held in secret, even interested parties have no means of acquiring any knowledge of what has taken place . . ."
>
> ". . . But where one is dealing with a decision given without reasons, by an anonymous official, who is not ascertainable, how can any such matter be proved?"

So far as electricity is concerned, the facts are precisely contrary, and the name of the inspector appointed by the Minister of Transport *is communicated* to all parties concerned; an inquiry *is held* in public, and a wide *locus* is afforded to anybody, even remotely affected, to expound their views. Full evidence is heard and full opportunities are afforded of examination, cross-examination and re-examination.

Later on the Lord Chief Justice suggests that it seems to be highly desirable that some of the leading newspapers should regard it as one of the appointed duties of some able (I thank him for that) member of the editorial staff, regularly and as a matter of course, to subject every new Bill to an examination similar to that given by Committees of Parliament.

The *res ipsa loquitur* rule seems to me to apply. So I leave it at that.

The Lord Chief Justice and text-book writers (I refer in particular to Allen in "Law in the Making" and to "Cases in Constitutional Law" by Keir and Lawson) have a good deal to say upon the tendency of delegated legislation to oust the jurisdiction of the courts.

As regards electricity, at any rate, I do not think that applies, for we welcome the ruling of the courts. There have been many points, and will be more, in which parties holding different views are only too glad to bring a friendly action in order to obtain an authoritative decision. The prerogative writs of prohibition and certiorari still run and a well-meaning and innocently peccant Minister may have his actions challenged in the courts (see *Rex* v. *Electricity Commissioners, London Electricity Joint Committee and Others*) [1923] C.A. 39; T.L.R. 715. It seems to me inevitable in these crowded days that delegated legislation should survive. I recently attended that picturesque scene in the House of Lords when Royal Assent is given to the Bills of the Session which have successfully run their courses, and I confess to a feeling of doubt and wonderment when I thought of the amount of time involved and money expended before "the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled" can enact that the Puddleton-on-Sea Sewage Bill shall be placed upon the statute book. But there it is and until, with much ceremony and bowings, it is announced in that nice age-old Norman French *Le roi le veult* Puddleton is unable to put its drains in order.

You will expect me, I think, to make some reference to the *Pitt Case* (*West Midlands Joint Electricity Authority* v. *Pitt and Others; Minister of Transport* v. *Pitt and Others, Consolidated*, Law Reports, 2 K.B. 1932).

In this case the point for decision was whether under s. 22 of the Electricity (Supply) Act, 1919, the Minister of Transport, in giving his consent to a compulsory wayleave on such terms, conditions and stipulations as he thought just, could include the assessment of a monetary wayleave rental. The courts decided that this was outside the province of the Minister, and accordingly, as the matter now stands, it is left to an arbitrator, in the case of public authorities, appointed under the Acquisition of Land Act, 1919, and, in the case of companies, appointed by the Minister of Transport, to assess the rental. The case to which I have referred was decided in the Court of Appeal on the 17th and 18th February and the 22nd March, 1932. In one case which I know about, it has been carried to an arbitrator, who has taken nearly a year before coming to any decision, which has not yet been formulated. In the meantime, difficulties arise because both authorised undertakers and the landowners concerned are rather groping in the dark, with the result that there has been a considerable hold-up in the development of electricity in rural areas—a particularly unfortunate thing, when efforts are being made to further achievements in that respect. It may be that further legislation will be ultimately required.

In this connection it may be of interest to mention that up to the end of last year the Central Electricity Board had obtained 20,432 voluntary wayleaves, and had only to apply to the Minister of Transport for compulsory wayleaves in 594 cases, representing 2·83 per cent.

I have referred before to an "authorised undertaker," who might be either a local authority, company or person, but before such a local authority, company or person can lawfully supply electricity they must obtain a Special Order or a Special Act for such purpose which constitutes such body or person an "authorised undertaker" for a specified area; prescribes the compulsory works to be laid down, gives the necessary power to break up streets for the purpose of laying the mains required for giving a supply of electricity; prescribes the period within which such mains must be laid down and a supply of electricity afforded and the maximum prices which may be charged for the electricity so supplied.

If the Electricity Commissioners are of opinion that proposals for a supply of electricity in any defined area are adequate and rest on a sound technical and financial basis, they may make a Special Order authorising the undertakers named in such Order to supply electricity for all purposes, and when such Order has been made, submitted to and confirmed by the Minister of Transport, and then approved by resolution passed by both Houses of Parliament as provided by s. 26 of the Electricity (Supply) Act, 1919, it has effect as if enacted in the Electricity (Supply) Acts.

Parliament has approved for the period 1919 to 1933 684 Special Orders authorising the supply of electricity in certain defined areas.

In only two of these 684 Special Orders have objections thereto been carried to a Select Committee of the House of Lords, and in one case (East Nottinghamshire Electricity Special Order, 1928) the amendments asked for by the objectors were imposed by Parliament upon the promoters, and in the other case (East Cornwall Electricity Special Order, 1932) the amendments imposed were of such a nature that the promoters of the Order did not proceed further with it.

In dealing with future legislation there are still many amendments required to the existing law, either to remove defects or to clear up doubts which have arisen in connection with the administration of the Electricity (Supply) Acts. It may be of interest to set out a few of such amendments—

(1) Section 13 of the Electric Lighting (Clauses) Act, 1899, which is incorporated in all Special Orders, authorises electrical undertakers to place street boxes (i.e., boxes containing transformers, switching or other apparatus) above ground, but if the authorised undertaker is not the local authority, the consent of the local authority is required to the erection of such boxes. With the development of the supply of electricity, the necessity for these boxes becomes greater, and it is anomalous that authorised undertakers (other than local authority authorised undertakers) should be subject to a veto in this respect. If such a modification is made, a local authority will still retain its rights under Section 14 of the Electric Lighting (Clauses) Act, 1899, by which an authorised undertaker desirous of constructing street boxes must notify the local authority and submit plans.

(2) Authorised undertakers are authorised to construct works within their statutory area of supply, but they cannot place electric lines above ground without the consent of the Minister of Transport (Section 10 (*b*), Electric Lighting (Clauses) Act, 1899). If an electric line placed above ground is no longer required, the authorised undertaker to whom such electric lines belong would and does usually in practice remove such line, but there is no power in the Electricity (Supply) Acts to compel such removal.

(3) The uncertainty as to what constitutes a highway and the extent to which an authorised undertaker may use a highway without the consent of the owners of the property on each side thereof.

(4) Section 19 of the Electric Lighting Act, 1909, purports to exempt agreements for the supply of electricity from Stamp Duty. It is suggested that full effect should be given to that section so as to ensure that "Bond Covenant Duty" at 2s. 6d. per cent. shall no longer be payable when a fixed sum is agreed to be paid over a fixed period. Electricity is now recognised as coming within the category of goods, wares and merchandise, and it seems to me to follow that to penalise the industry by the imposition of such heavy Stamp Duties is in restraint of trade (*County of Durham Electrical Power Distribution Co. Limited* v. *Commissioners of Inland Revenue* [1909] 2 K.B. 604).

If any of you have any further suggestions to make and will send them to me, I can assure you that they shall receive the most careful consideration.

(*To be continued.*)

The Banquet.

Mr. J. C. B. GAMLEN, President of the Berks, Bucks and Oxon Incorporated Law Society, presided at the Banquet, which was held at the Town Hall on Tuesday evening. After the loyal toasts had been honoured, Sir Dennis Herbert, M.P., proposed the toast "Bench and Bar." The relations between the two branches of the profession were, he said, so friendly that a solicitor who proposed this toast was something like a husband who proposed the health of his wife. The ladies present would appreciate this simile when they remembered that the Bar was known as the higher branch of the profession. Members of the Bar were now regarded as dependable persons who would not sink to bribing solicitors to send them briefs if they happened to travel in the same railway carriage. Nevertheless, close as the two branches were, he hoped that they would never in his time be fused. The advocates of fusion did not realise how totally different were the respective spheres of work of solicitors and barristers, a difference even greater than that suggested by the schoolboy who wrote that a barrister was a man who knew where to find the law in the books, whereas a solicitor was the man who knew it and could tell one. In days when learning had been less common, barristers had acquired the style of "learned gentlemen," and some of them still deserved it. Solicitors were not even now expected to be learned; it was no libel to say of a solicitor that he knew no law. He was a man of business. Nevertheless, even in the early days of the profession his qualifications had included that he should be a man of honour, virtue and good reputation.

The Bench was, continued Sir Herbert, the pride not only of the profession but also of the whole nation. Citizens of the U.S.A. were not as a rule backward in claiming the first position for their country, but the utmost that a great American lawyer had been able to claim for the American courts had been that they were the best in the world after those of Great Britain. All lawyers would wish that the time might not be far distant when the financial sacrifice entailed by elevation to the Bench would be diminished. It was an argument in favour of high fees at the Bar that unless an eminent counsel made a fortune he could not afford to retire on to the Bench!

Lord ATKIN, in reply for the Bench, said that the position of a judge carried as one of its greatest rewards the confidence of the legal profession. The work was not easy. There were those who thought that anyone was competent to adjudicate in disputes between individuals, and the amateur judge was rather in vogue. A large number of persons held the opinion that a private gentleman was just as fit to determine a question of fact as a judge and was certainly a great deal cheaper. The legal profession, however, believed that there was something in training and that it took some time to make even a competent judge. One substantial difficulty lay in the changes which were made not only in the law but in procedure. Judges of first instance had now to make themselves acquainted with the New Procedure, and there appeared to have developed recently a theory of a new New Procedure, the principle of which seemed to be that witnesses for one side could be examined before one tribunal in one country, and witnesses for the other party before another tribunal in another country. If this procedure were adopted, it would be not only embarrassing to any judge but quite inconsistent with the most elementary ideas of British justice.

Twenty years ago, when he had been at the Bar, one of the boasts of the profession had been that the standard and quality of the bench were at least equal to those of leading counsel. Unless some change was made in the judicial income, that position, which was one of the chief reasons for the present fame of British justice, was likely to disappear. Under present conditions it would not be possible to draw upon the best men at the Bar in order to reinforce the bench, and the lack would be all the more significant as time went on. The more able members of the bench would be drawn upon for appeal work, and judges of first instance would be drawn only from those who were prepared to accept the judicial post with its present salary. He was very glad to have the support of the President of The Law Society for this view.

Mr. D. COTES-PREEDY, K.C., Recorder of Oxford, in replying for the Bar, said that an audience of two or three hundred solicitors was the most critical jury before whom any poor barrister could plead. He used the word "poor" advisedly, because, although the newspapers reported reductions of salary and large fortunes left by solicitors, nothing was said about the poor barrister whose work was falling away. The President, in his address, had been eloquent about the wrongs of women; the Recorder proposed to give him a hint which would make him famous for ever. He had been talking to a Writer to the Signet in Scotland, a bachelor, who bemoaned the fact that, in common with every solicitor in Scotland, he had to contribute a yearly sum to a pension fund for widows. Even if he married he would have to pay a capital sum. If, therefore, Sir Reginald wished to make himself beloved by all the ladies married to solicitors, now was his chance.

As a Cambridge man, Mr. Cotes-Preedy welcomed The Law Society to the ancient City of Oxford. Justice was, he said, dispensed here in a splendid way; no complaints had ever been heard against the justices, or the Recorder. He therefore recommended the guests to stay as long as they liked, but warned them not to get into trouble.

Mr. Justice EVE then proposed—

"THE UNIVERSITY OF OXFORD."

He said that he could not speak without a consciousness of the private and domestic bereavement sustained by the public

and the University in the recent death of Lord Grey. He tendered a message of sincere sympathy to the Vice-Chancellor. The character and spirit of the late Chancellor survived to fortify the generations to come and to illuminate their path. It was fortunate for the University that it still possessed notable men, competent to fulfil the duties of Chancellor, and the final selection would be awaited with unwavering confidence.

The tendency of modern legislation was, Mr. Justice Eve remarked, to restrict the liberty of the individual particularly in the practice of his profession or the conduct of his business. This tendency was much to be regretted, and ought to be resisted and curtailed. If he were a dictator he was not sure that he would allow the Society's recent Act to remain on the Statute Book. He would also abolish legislation by reference; legislation embodied in a whole series of schedules, one inconsistent with the other, in due course to be supplemented by sets of rules, departmentally settled, which would create greater confusion. This practice was calculated to make wide differences of opinion on matters of construction and to result in litigation, which he did not love so much as he had when he had been at the Bar, and in injustice so great as to show that the Act had to some extent defeated its own end. He was conservative in his instincts, and considered that in the present zeal for haste it was well to remember that the reputation of the British courts for justice had been built up on tests for reliability, not on tests for speed.

The VICE-CHANCELLOR, in reply, said that the chief reason for his diffidence was that he had to stand before a company of distinguished lawyers who were not only skilled and experienced speakers but were also practised in detecting the weaknesses and defects of other orators. In this home of the best causes, when he found himself in any difficulty he naturally had recourse to the classics. He had thought of turning to Cicero, but that author not infrequently spoke of the law and legal luminaries with a very improper disrespect. As Mr. Baldwin had said on the previous evening, it was a characteristic of Englishmen to have a great respect for the law, and the Vice-Chancellor had therefore referred to Gulliver. This hero had expressed unbounded admiration for the consummate ability of the lawyers of this country, and had told his master among the Houyhnhnms that all the rest of the population were their slaves; warning him, however, that it was against all rules of law that a man should be allowed to speak for himself. Why then was the Vice-Chancellor speaking for himself? It seemed clear that, in order that the speech should be made with commanding ability and proper regard for form and the ancient proprieties of the legal profession, some lawyer should speak. If there was any special reason to make an exception, surely he should be furnished with a brief, so that the lawyers present might derive pleasure from feeling that they could have discovered much better points and made them much better than the layman.

No lawyer, however, would disagree that one of the chief and continually repeated successes of the University had been its production of great lawyers. "Si documentum requiritis, circumspicite." This accounted for the facility and generosity with which the toast had been proposed, and also for its kind reception. From the very earliest times the law had been one of the chief faculties of the University and held in the highest honour. The great Lombard jurist and canonist Vinerius was said to have taught law there as early as the twelfth century, and what would have the Blackstones, Eldons and Birkenheads have done without the sharpening of their wits and the restoring of their minds which their Alma Mater had given them? She had produced an abundant supply of such talents, which had been devoted to such beneficent usage.

Gulliver had, concluded the Vice-Chancellor, suggested a reason which might possibly justify a layman in responding to this toast in person. That traveller had told his master that a lawyer was practised from his cradle in defending falsehood and wrong, and was much less in his element when speaking in a good cause. As there was no doubt that the University was as good a cause as a man could defend, this rash and surprising statement might possibly justify such a departure from legal tradition.

Mr. JOHN BUCHAN, M.P., then proposed the health of "The City of Oxford." In his time, he said, he also had been a lawyer; before his call to the Bar he had spent several months in a solicitor's office. Nowadays in his dealings with courts of justice he had to be content with the discomfort of the witness-box. As far as a Scotsman could have a home in England, he claimed Oxford as his home town. He had been connected with the University for forty years, and for fifteen had lived within five miles of the city. No better neighbour could be imagined; it was the heart and jewel of a great county. It had been flourishing long before the University had been heard of, and the Mayor of Oxford had been a famous character in the country before the office of the Vice-Chancellor had come into existence. The guests needed no reminder of its present vigour: Oxford cars ran on all the roads of the civilised world and Oxford marmalade was on every well-appointed breakfast-table. The city had produced far too many eminent lawyers; the University had provided a large part of the science of their profession, and the municipality had always had a close link with learning and culture. It had always had the broader view, the larger vision. It had taken, in an admirable way, steps to safeguard the beauties of the City and the amenities of the environs. The common law of old England was the foundation of English learning and the palladium of English liberties, the very heart and centre of the national tradition. Oxford was one of the ancient and imperishable things in England. In giving the toast, he invited one great English tradition to drink to the health and prosperity of another.

Alderman C. H. BROWN, Mayor of Oxford, said in reply to the toast that, as an ordinary individual and not as a member of the Bar, the evidence which he had to give must be the truth, the whole truth and nothing but the truth. He regretted to have to call Sir Dennis Herbert to order, and to ask him what he had meant when he had called Oxford a town. Oxford was a city, and a city of no mean repute—in fact, a city that was set upon a hill and could not be hid, and would maintain its own cause and its own importance though lawyers might come and go. He welcomed all the guests to the city, exhorting them to spend as much money as they could, and to live in it when they retired. The university, he maintained, depended upon the city absolutely for its existence, and for the common necessaries of life, from the beginning to the end.

Sir CLAUD SCHUSTER, K.C., in proposing the health of THE LAW SOCIETY,

complained that the evening had had certain moments of sadness for him. He was shocked to hear that since he had received an imperfect education in Oxford it had been set upon a hill. In his days it had been in the bottom of a cup. He had been sitting next to the Recorder, who through some blunder had been appointed although he had come from Cambridge. He had been terribly hurt at the sad plight of the Vice-Chancellor, who in an assembly of lawyers had had to speak not only without a brief but without a fee. The toast proposed itself, and not the less so because it was necessarily coupled with the name of the present President, a true friend of nearly all those present. Sir Claud had the honour of proposing the toast for about the sixteenth time in eighteen years. Having proposed it so often, the company might expect him to be brief, but he intended to occupy the time until midnight in extolling the Society's virtues. When asked to undertake the task, he had written to one who, not as a fleeting phantom but permanently, directed the Society's destinies; who, while pretending not to preside, directed them for ever. Mr. Cook had replied: "Well, you know more about us than we know about ourselves." If he knew more about The Law Society than some people, it was because for eighteen years he had constantly received from its Council the advice and assistance which had led him in the right path and maintained him in it. No one who had served the Lord Chancellor for as long as he had could fail to acquire a debt of gratitude to the Society, its Council and every member.

He reminded the company, especially those who were not members, of the work which the Society did in poor prisoners' litigation. In the whole country there could not be found a profession the members of which did so much work for the poor. He expressed the gratitude of those who promoted the work from his end; the Society might receive no other reward. He would not draw swords, he said, with those who thought that particular legal reforms were hasty, premature or ill-advised. He would only say that in the consideration and preparation of the plans the Council and members of the Society were always to the fore, giving time that could be ill spared from their own business and sometimes sacrificing their own interests in the cause of justice. Solicitors carried on their work in silence and secrecy; they held in their hands great business interests and, more important still, the lives of men engaged in the most delicate affairs of life. The conduct of this work and, in the long run, the administration of justice and the apportionment among men of the prizes and disgrace of life depended upon the personal character of the solicitor far more than men were generally disposed to admit or allow.

Their President was a fitting representative of this profession and an example of those qualities of determination, secrecy, honesty and a kind of cheery good fellowship that gilded and sweetened the whole. The President also possessed a kind of flinching modesty which did not like to hear praise; he did not

wish to have attributed to him any quality out of the ordinary. He claimed for himself nothing—though it was a great deal—but the character of a straightforward English gentleman, discharging in difficult and high affairs the great duties which he had made himself fit to perform.

Sir REGINALD POOLE, in reply, said that he understood that he would have to respond to this toast on many occasions during the coming year. If he could hope to vary his phraseology as Sir Claud had varied his on sixteen occasions, he would be well content. An after-dinner speech should, he said, be light and humorous. Humour could, he supposed, be either subjective or objective. He conceived a subjectively humorous speech to be one which the speaker thought was funny but nobody agreed with him. An objectively humorous speech was one in which the speaker did not mean to be funny but everybody roared with laughter. It was difficult, he said, to be humorous about The Law Society. Its proceedings were faithfully recorded in its domestic periodical. If he said that The Law Society's "Gazette" did not combine the imagination of Stevenson with the periods of Macaulay, he did not think that he was putting it too high. He hoped in the course of his presidency to alter somewhat the contents of that publication. It might be possible to introduce into it some rather more modern literature. He had ideas of a serial story, possibly a crossword puzzle, and an extra supplement for children. If in the future he received for that supplement the blessings of babes, he would be comforted, because their fathers had frequently cursed him.

The Law Society was represented at the meeting in substantial numbers by its Council. To borrow an analogy from geography, the Council had been defined as a dry mass entirely surrounded by solicitors. He did not agree that this was a fair criticism, but some people said it. They spoke in ignorance, and were more to be pitied than blamed. The people on the Council were, he understood, believed all to be old men. By a strange process of nature, though he would not deny that every year added a year to their ages, the average age of the Council was less than it used to be, without making any allowance for the accusation that some members had reached their second childhood.

Solicitors suffered, concluded the President, from an inferiority complex—or, as his secretary had transcribed it, an "interiority" complex, which amounted to much the same thing. They would not gain public appreciation unless they had a proper appreciation of themselves. He had the greatest possible admiration and respect for his profession. It could and did do an incalculable amount of good. Working under the seal of silence, it could never receive much of the credit which it justly deserved. It was true that in many branches of affairs—in politics, commerce and social conditions—the solicitor was the voice behind the throne. Many men of great position had consulted solicitors in the crises of their lives, and the advice they had received had probably saved them and the country from imminent peril. Men in trouble or in doubt went first to their lawyer, and from his experience of life and his knowledge of men and affairs they received what they ought to receive; the advice of one who spoke as a spectator and saw more of the game than the man inside.

He hoped that on many more occasions than sixteen the Society would have the pleasure of hearing Sir Claud Schuster address it in as happy phrases and with as great ability of language as he had employed that evening.

The CHAIRMAN, proposing the health of "The Guests," quoted a remark of his old tutor that every man ought to know just enough law not to be overawed by lawyers. The Vice-Chancellor, to those who did not know him, appeared to be a Vice-Chancellor and a clergyman, but he was also a very sound lawyer. For years he had been estates bursar of his own college of Worcester, and Mr. Gamlen, whose firm acted for that college, knew how much the Vice-Chancellor had done for it and how sound was his knowledge of real property law. The Mayor, as the city's chief magistrate, was also a lawyer. Sir William Morris, sitting next to him, was a doctor of common law. He did not know what Sir William knew about the common law, but every one in Oxford recognised that he knew all about equity. As a very young man, Mr. Gamlen said, his firm had often briefed Mr. Eve, K.C., and he had attended conferences in Mr. Eve's chambers, sitting timidly just inside the door and taking no part in the proceedings. Thirty years had only confirmed his first impression of Mr. Eve—who, incidentally, belonged to Exeter, his father's old college.

The Society had as its guests all five professors of law, of whom he would like to speak if he had been able. A happy fortune had placed him in the position of being Mr. Justice Luxmoore's host. One of the kindest of men, Mr. Justice Luxmoore had constituted himself for the special occasion a vacation judge, whom Mr. Gamlen had approached in chambers unaccompanied by counsel. He had obtained both a *mandamus* and an injunction; the *mandamus* being that he might say what he liked about Oxford, the injunction being to take great care what he said about Cambridge. Bearing in mind that he was dealing not only with a judge of the High Court, but with an ex-member of the Cambridge and England Rugby sides, he had kept within those terms.

On hearing that the meeting was to be held in Oxford, Mr. Gamlen had asked the late Lord Chelmsford, the predecessor of the present Warden of All Souls, what hospitality his college, as that most acquainted with the law, would be able to offer. To meet Lord Chelmsford and experience what sort of a man he was had been a great experience: the Warden and his colleagues had thrown themselves into the work with the utmost eagerness. That Lord Chelmsford had been Warden for so short a time was a tragic thing for Oxford and for All Souls. Happily, his worthy successor had taken up the work exactly where Lord Chelmsford had laid it down. So long as Oxford continued to produce men of the character of Cardinal Newman, Lord Grey and Lord Chelmsford, she need not fear for her future.

Mr. Justice LUXMOORE, in reply, remarked that he held no brief and would receive no fee, but was accompanied by a junior who—probably because he was an economist and not a lawyer—had omitted to fulfil the duty of a well-trained junior and give his leader all his best points. He suggested as a departure from custom that at the next banquet the toast of Bench and Bar should be proposed by a disappointed litigant who had been driven from the judgment seat on the previous day and ordered to pay the costs of the action; and that, instead of having Sir Claud Schuster to propose the Society's health, they should invite a successful litigant who had just been asked to pay the difference between the solicitor and client costs and the taxed costs in an action he had undertaken on his solicitor's advice.

The WARDEN OF ALL SOULS, also in reply, proposed to be an economist in time as well as in calling. One of the very great factors in the building up of a community was, he said, to have a body like The Law Society into which young men could go from the University to be trained in the work of life according to noble traditions. The future of the country at this crisis in its history depended in no small degree on such bodies.

Sir W. S. HOLDSWORTH, K.C., in the absence of Mr. Walter Monckton, K.C., proposed the health of the Chairman, a subject which he declared needed no advocacy.

The CHAIRMAN replied with a few words of praise to those who had helped him organise the hospitality, particularly during the last lap, which was always the worst. They had been fortified in their labours by the thought of Mrs. Trodgers—"Trodgers' can do it when it chooses." The local Oxford Trodgerses had tried to do it this time, and it was for their guests to pass judgment.

Among those present were The Right Hon. Lord Atkin, The Rev. The Vice-Chancellor of Oxford University, The Hon. Mr. Justice Eve, The Hon. Mr. Justice Luxmoore, Sir William Morris, Bart., Sir Roger Gregory, LL.D., The Right Hon. Sir Dennis Herbert, K.B.E., M.P., Sir W. S. Holdsworth, K.C., D.C.L., Sir Philip Martineau, Sir A. McWatters, C.I.E., Sir C. H. Morton, Sir Reginald Poole (President of The Law Society), Sir Harry Pritchard, Sir Claud Schuster, G.C.B., C.V.O., K.C., Sir Cecil Walsh, K.C., The Warden of All Souls College, The Rev. The President of Trinity College, Mr. G. F. Baker (President, Wolverhampton Law Society), Mr. H. R. Blaker, Professor J. L. Brierly, D.C.L. (Chichele Professor of International Law and Diplomacy), Alderman C. H. Brown (Mayor of Oxford), Mr. John Buchan, C.H., M.P., Mr. W. J. Clarke (Sheriff of Oxford), Mr. E. R. Cook (Secretary of The Law Society), Mr. I. Deane-Jones (Junior Proctor), Mr. K. T. S. Dockray (President of the Manchester Incorporated Law Society), Professor A. L. Goodhart, D.C.L. (Professor of Jurisprudence), Mr. A. E. Grundy (President, Ashton, Stalybridge and District Law Society), Mr. G. G. Hanbury (Senior Proctor), Mr. A. Holt (Town Clerk of Oxford), Mr. F. H. Jessop (President, North Wales Law Society), Professor R. W. Lee, D.C.L. (Rhodes Professor of Roman-Dutch Law), The Hon. A. E. A. Napier, C.B., Mr. W. H. Percival (President, Northants Law Society), Mr. G. A. C. Pettitt (President, Birmingham Law Society), Mr. F. Richardson (President, Bristol Incorporated Law Society), Mr. G. Tassell (President, Kent Law Society), Mr. D. Veale (Registrar of the University), Mr. A. Walsh (Clerk to the Oxford City Justices), Mr. H. C. Warry (President, Somerset Law Society), Mr. S. E. Wilkins (Vice-President, Berks, Bucks and Oxon Incorporated Law Society), Mr. C. W. Wright (President of the Liverpool Incorporated Law Society), and Professor F. de Zulueta, D.C.L. (Regius Professor of Civil Law).

Mr. Thomas James Dyson, retired solicitor, of Sidmouth, left £9,081, with net personalty £4,023.

Obituary.

MR. JUSTICE RANEY.

Mr. Justice William Edgar Raney, of the Ontario Supreme Court, died on Sunday, 24th September, at the age of seventy-four. He was created a K.C. in 1906, and was elected to the Ontario Legislature in 1923. He was Attorney-General of Ontario from 1919 until 1923, and in 1927 he was appointed to the Ontario Bench.

MR. E. R. BIRD, M.P.

Mr. Ernest Roy Bird, M.P., solicitor, partner in the firms of Messrs. Wedlake, Letts and Birds, of Serjeants' Inn, and Messrs. Ernest Bird and Sons, of Kensington, died at Johannesburg, on Wednesday, 27th September, in his fiftieth year. Mr. Bird was educated at St. Paul's School, and was admitted a solicitor in 1905. After contesting North Lambeth in 1922 and 1923, he was elected for the Skipton Division of Yorkshire as a Unionist in 1924. Last December, with the support of The Law Society, he introduced the Solicitors' Bill, which received the Royal Assent in June. Mr. Bird was chairman of Kettners Limited, and of the West End Board of the Royal Exchange Assurance, and was also a director of several companies. He took a great interest in farming, and was for a time president of the North Ribblesdale Agricultural Society.

MR. H. J. COBBETT.

Mr. Henry James Cobbett, solicitor, partner in the firm of Messrs. Hobson, MacMahon and Cobbett, of Essex-street, Strand, died at Warlingham, on Friday, 22nd September, at the age of sixty-nine. Mr. Cobbett was admitted a solicitor in 1897.

MR. G. LOVIBOND.

Mr. George Lovibond, retired solicitor, formerly of Bridgwater, died recently at Bournemouth, at the age of eighty-six. Mr. Lovibond, who was admitted a solicitor in 1869, was senior partner in the firm of Messrs. Lovibond, Son and Barrington, of Bridgwater. He succeeded his father as registrar of the Bridgwater County Court, and clerk to the Somerset Drainage Commissioners, and he was also clerk to various district Drainage Boards. He retired in 1927.

MR. T. C. MARTIN.

Mr. Temple Chevallier Martin, for over forty years Chief Clerk at Lambeth Police Court, died recently at the age of ninety-one. Mr. Martin retired in 1907. He was the author of several legal works.

MR. T. STUART.

Mr. Thomas Stuart, solicitor, of Newcastle-upon-Tyne, died recently at the age of fifty-five. Mr. Stuart was educated at Uppingham, and having served his articles in Liverpool, he was admitted a solicitor in 1901. He was appointed clerk to Hebburn County Council in 1907, and a few days later became clerk to South Shields County and Hebburn Justices. For many years he was secretary to the Newcastle and District Beagles, and chairman of the Northumberland Golf Club.

MR. J. E. WING.

Mr. James Edward Wing, solicitor, of Sheffield, died on Friday, 22nd September. Mr. Wing was admitted a solicitor in 1894.

NEW POLICE COURT AT ROMFORD.

The new courthouse which has been built at the rear of the police-station in South-street, Romford, Essex, was opened on Thursday, 21st September, by Mr. Arthur Porter, Chairman of the Essex County Council, and a member of the bench. The Romford magistrates have used the county court building on the opposite side of the street since 1858.

Rules and Orders.

LANCASTER (COURT OF CHANCERY).

THE CHANCERY OF LANCASTER RULES (NO. 1) 1933.
DATED SEPTEMBER 7, 1933.

The Right Hon. John Colin Campbell Davidson, C.H., C.B., M.P., Chancellor of the Duchy and County Palatine of Lancaster with the advice and consent of Sir Courthope Wilson, K.C., the Vice Chancellor of the said County Palatine and with the approval of the authority empowered to make rules for the Supreme Court in pursuance of the powers and authorities in that behalf given to him by the Chancery of Lancaster Acts 1850 to 1890,(*) and all other powers and authorities enabling him in that behalf doth hereby order and direct as follows:—

1. Order XXIA shall be revoked and the following rules shall be substituted therefor:—

"ORDER XXIA.

Payment into and out of Court.

1. *Payment into Court.*]—(1) In any action for a debt or damages the defendant may at any time upon notice to the plaintiff pay into court a sum of money in satisfaction of the claim or (where several causes of action are joined in one action) in satisfaction of one or more of the causes of action; provided that with a defence setting up tender before action the sum of money alleged to have been tendered must be brought into court.

Specific causes of action.]—(2) Where the money is paid into court in satisfaction of one or more of several causes of action the notice shall specify the cause or causes of action in respect of which payment is made and the sum paid in respect of each such cause of action, unless the Court or Vice Chancellor otherwise order.

Notice.]—(3) The notice shall be as in Form 2A in Appendix B, and shall state whether liability is admitted or denied, and receipt of the notice shall be acknowledged in writing by the plaintiff within three days.

2. *Plaintiff may take out money.*]—(1) Where money is paid into court under Rule 1, the plaintiff may, within seven days of the receipt of the notice of payment into court, accept the whole sum or any one or more of the specified sums in satisfaction of the claim or in satisfaction of the cause or causes of action to which the specified sum or sums relate, by giving notice to the defendant in Form 2B in Appendix B; and thereupon he shall be entitled to receive payment of the accepted sum or sums in satisfaction as aforesaid.

(2) Payment shall be made to the plaintiff or on his written authority to his solicitor, and thereupon proceedings in the action or in respect of the specified cause or causes of action (as the case may be) shall be stayed.

Plaintiff may tax costs.]—(3) If the plaintiff accepts money paid into court in satisfaction of his claim, or if he accepts a sum or sums paid in respect of one or more of specified causes of action, and gives notice that he abandons the other cause or causes of action, he may, after four days from payment out and unless the Court or Vice Chancellor otherwise order, tax his costs incurred to the time of payment into court, and forty-eight hours after taxation may sign judgment for his taxed costs.

(4) A plaintiff in an action for libel or slander who takes money out of court may apply for leave to make in open court a statement in terms approved by the Vice Chancellor.

(5) This rule does not apply to an action or cause of action to which a defence of tender before action is pleaded.

3. *Money remaining in Court.*]—If the whole of the money in court is not taken out under Rule 2, the money remaining in court shall not be paid out except in satisfaction of the claim or specified cause or causes of action in respect of which it was paid in and in pursuance of an order of the Court or Vice Chancellor, which may be made at any time before, at or after trial.

4. *Several defendants.*]—(1) Money may be paid into court under Rule 1 by one or more of several defendants sued jointly or in the alternative, upon notice to the other defendant or defendants.

(2) If the plaintiff elects within seven days after receipt of notice of payment into court to accept the sum or sums paid into court, he shall give notice as in Form 2B in Appendix B to each defendant.

(3) Thereupon all further proceedings in the action or in respect of the specified cause or causes of action (as the case may be) shall be stayed, and the money shall not be paid out except in pursuance of an order of the Court or Vice Chancellor dealing with the whole costs of the action or cause or causes of action (as the case may be).

5. *Counter-claim.*]—A plaintiff or other person made defendant to a counter-claim may pay money into court in

* 13-4 V. c. 43; 17-8 V. c. 82; 53-4 V. c. 23.

accordance with the foregoing Rules, with the necessary modifications.

6. *Non-disclosure of payment into Court.*]—Except in an action to which a defence of tender before action is pleaded or in which a plea under the Libel Acts, 1843 and 1845†, has been filed, no statement of the fact that money has been paid into court under the preceding Rules of this Order shall be inserted in the pleadings and no communication of that fact shall at the trial of any action be made to the Vice Chancellor or Jury until all questions of liability and amount of debt or damages have been decided, but the Vice Chancellor shall, in exercising his discretion as to costs, take into account both the fact that money has been paid into Court and the amount of such payment."

2. The following Rule shall be inserted after Rule 1 of Order XLVIIIA and shall stand as Rule 1A.

"1A. Any person claiming any legal or equitable right in a case where the determination of the question whether he is entitled to the right depends upon a question of construction of a statute, may apply by originating petition or motion for the determination of such question of construction, and for a declaration as to the right claimed."

3. The Forms No. 2A and No. 2B in Appendix B shall be revoked and the following Forms shall be substituted therefor:—

No. 2A.

Notice of Payment into Court (O.21A, r. 1).

(Letter and number)

In the Chancery of the County Palatine of Lancaster
District.

Between A.B., Plaintiff.
and
C.D. and E.F. Defendants.

Take notice that the defendant (C.D.) has paid into Court £ and says that (£ part of) that sum is enough to satisfy the plaintiff's claim (for and £ the other part of that sum is enough to satisfy the plaintiff's claim for) and admits (but denies) liability therefor.

Dated the day of , 19 .

.....P.Q.
Solicitor for the defendant C.D.

To Mr. X.Y., the plaintiff's solicitor.
(and to Mr. R.S., solicitor for the defendant, E.F.)

.....

Received the above sum of pounds shillings and pence into Court in this action.

Dated the day of , 19 .

No. 2B.

Acceptance of sum paid into Court (O.21A, r. 2).

(*Title as in Form 2A.*)

Take notice that the plaintiff accepts the sum of £ paid by the defendant (C.D.) into Court in satisfaction of the claim in respect of which it was paid in (and abandons his other claims in this action).

X.Y., plaintiff's Solicitor.

To Mr. P.Q., Solicitor for the defendant C.D.
and Mr. R.S., Solicitor for the defendant E.F."

4.—(1) These Rules may be cited as the Chancery of Lancaster Rules (No. 1) 1933, and the Chancery of Lancaster Rules, 1884‡ shall have effect as amended by these Rules.

(2) These Rules shall apply to all actions commenced on or after the 1st day of August, 1933, and subject as aforesaid, shall come into operation on the 2nd day of October, 1933.

Dated the 7th day of September, 1933.

J. C. C. Davidson,
Chancellor.
Courthope Wilson,
Vice Chancellor.

Approved by the Rule Committee of the Supreme Court.
Claud Schuster.

† 6-7 V. c. 96 and 8-9 V. c. 75.

‡ S.R. & O. Rev. 1904, VI, Lancaster (Court of Chancery), pp. 23-223 (reprinted as amended to Dec. 31, 1903).

THE COUNTY COURT DISTRICTS (CRAVEN ARMS) ORDER, 1933, DATED SEPTEMBER 22, 1933.

I, John Vincent Sankey, Lord High Chancellor of Great Britain by virtue of section 4 of the County Courts Act, 1888,(*) as amended, by section 9 of the County Courts Act, 1924,(†) and of all other powers enabling me in this behalf, Do hereby order as follows:—

1. The County Court of Shropshire held at Bishop's Castle shall cease to be held at Bishop's Castle and shall be held at Craven Arms by the name of the County Court of Shropshire held at Craven Arms: and the said Court held at Craven Arms shall have jurisdiction to deal with all proceedings which shall be pending in the said Court held at Bishop's Castle when this Order comes into operation.

2. The parishes set out in the first column of the Schedule to this Order shall be detached from, and cease to form part of, the district of the said Court held at Bishop's Castle, and shall be transferred to, and form part of, the County Court districts set opposite to their names respectively in the second column of the said Schedule.

3. In this Order "parish" shall mean a place for which immediately before the 1st day of April, 1927, a separate poor rate was or could be made or a separate overseer was or could be appointed:

Provided that unless the contrary intention appears, the boundaries of every parish mentioned in this Order shall be those constituted and limited at the date of this Order.

4. This Order may be cited as the County Court Districts (Craven Arms) Order, 1933, and shall come into operation on the 1st day of October, 1933, and the County Court Districts Order in Council, 1899,(‡) as amended, shall have effect as further amended by this Order.

Dated the 22nd day of September, 1933.

Sankey, C.

SCHEDULE.

First Column. Parishes.	Second Column. County Court Districts.
	Montgomeryshire.
Church-Stoke.	Welshpool.
Shelve.	Welshpool.
	Shropshire.
Ratlinghope.	Shrewsbury.

(*) 51-2 V. c. 43. (†) 14-5 G. 5. c. 17.

(‡) S.R. & O. 1899, No. 178, printed as amended to 1903, S.R. & O. Rev. 1904 III, County Court, E., p. 1.

Legal Notes and News.

Honours and Appointments.

Mr. AMBROSE HENRY WEBB, President of a District Court, Palestine, has been appointed a Judge of His Majesty's Supreme Court of Kenya.

Mr. JOHN GIBSON, who is at present Depute Procurator-Fiscal of Edinburgh, has been appointed second Depute Clerk of Justiciary in succession to Mr. V. S. M. Marshall, B.L., who was recently appointed Senior Depute. Mr. Gibson qualified as a solicitor in 1930.

The Board of Inland Revenue have appointed Mr. FREDERICK CHARLES LAMBERT, admitted a solicitor in 1895, as Controller of the Estate Duty Office, Somerset House, in succession to the late Mr. W. E. Willan, and Mr. ALBERT ROBINSON, LL.B., admitted 1899, as Deputy Controller in succession to Mr. H. J. R. Herford, who has retired. Mr. ROBERT DYMOND and Mr. G. D. FLORENTINE have been appointed Assistant Controllers. Mr. Dymond, who is the author of the standard work on Death Duties, was admitted a solicitor in 1897.

Professional Announcements.

(2s. per line.)

CANADA AND GRAND JURIES.

Grand juries have been abolished in all the judicial districts of the Province of Quebec except the City of Montreal. Quebec thus falls in line with the Provinces of Manitoba, Saskatchewan and Alberta, which abolished the grand jury system some time ago.

HUDDERSFIELD BUILDING SOCIETY.

The new London office of the Huddersfield Building Society will be opened on Monday, 2nd October, at 203, Strand, W.C.2. The telephone number will be Temple Bar 6735.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON GROUP I.

DATE.	EMERGENCY ROTA.	APPEAL COURT No. 1.	MR. JUSTICE EVE. Witness. Part II.	MR. JUSTICE MAUGHAM. Witness. Part I.
	Mr.	Mr.	Mr.	Mr.
Oct. 2	Andrews	Blaker	Blaker	*Jones
,, 3	Jones	More	*Jones	*Hicks Beach
,, 4	Ritchie	Hicks Beach	Hicks Beach	*Blaker
,, 5	Blaker	Andrews	*Blaker	Jones
,, 6	More	Jones	Jones	*Hicks Beach
,, 7	Hicks Beach	Ritchie	Hicks Beach	Blaker

	GROUP I. MR. JUSTICE BENNETT. Non-Witness.	MR. JUSTICE CLAUSON. Witness. Part I.	GROUP II. MR. JUSTICE LUXMOORE. Non-Witness.	MR. JUSTICE FARWELL. Witness. Part II.
	Mr.	Mr.	Mr.	Mr.
Oct. 2	Hicks Beach	*More	Ritchie	*Andrews
,, 3	Blaker	*Ritchie	Andrews	More
,, 4	Jones	*Andrews	More	*Ritchie
,, 5	Hicks Beach	*More	Ritchie	Andrews
,, 6	Blaker	Ritchie	Andrews	*More
,, 7	Jones	Andrews	More	Ritchie

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

MICHAELMAS SITTINGS, 1933.

COURT OF APPEAL.

APPEAL COURT No. I.

Monday, 2nd October.—Exparte Applications, Original Motions, Interlocutory Appeals from the Chancery and Probate and Divorce Division, and if necessary, Chancery Final Appeals.

Chancery Final Appeals will be continued until further notice.

APPEAL COURT No. II.

Monday, 2nd October.—Exparte Applications, Original Motions, Interlocutory Appeals from the King's Bench Division and King's Bench Final Appeals.

King's Bench Final Appeals will be continued until further notice.

APPEAL COURT No. III.

Monday, 2nd October.—King's Bench Final Appeals.

King's Bench Final Appeals will be continued until further notice.

HIGH COURT OF JUSTICE.

CHANCERY DIVISION.

GROUP I.

Before Mr. Justice EVE.

(The Witness List. Part II.)

Mr. Justice EVE will sit daily for the disposal of the List of longer Witness Actions.

Before Mr. Justice MAUGHAM.

(The Witness List. Part I.)

(Actions, the trial of which cannot reasonably be expected to exceed 10 hours.)

Mondays .. Companies (Winding up) Business.

Tuesdays, Wednesdays, Thursdays, Fridays ... The Witness List, Part I.

NOTICE.

Subject to the Companies (Winding Up) Business, the Court may be taking Non-Jury actions from the King's Bench List during the early part of the Term.

Before Mr. Justice BENNETT.

(The Non-Witness List.)

Mondays ...Chamber Summonses.

Tuesdays ..Motions, Short Causes, Petitions, Procedure Summonses, Further Considerations and Adjourned Summonses.

Wednesdays Adjourned Summonses.

Thursdays ..Adjourned Summonses. Lancashire Business will be taken on Thursdays, the 19th October, 2nd, 16th and 30th November, and 14th December.

Fridays ...Motions and Adjourned Summonses.

GROUP II.

Before Mr. Justice CLAUSON.

(The Witness List. Part I.)

(Actions, the trial of which cannot reasonably be expected to exceed 10 hours.)

Mondays ....Bankruptcy Business.

Tuesdays .., Wednesdays, Thursdays, Fridays .. The Witness List, Part I.

Bankruptcy Judgment Summonses will be taken on Mondays the 9th and 30th October, 20th November and 11th December.

Bankruptcy Motions will be taken on Mondays, the 16th October, 6th and 27th November.

A Divisional Court in Bankruptcy will sit on Mondays the 23rd October, 13th November and 4th December.

Before Mr. Justice LUXMOORE.

(The Non-Witness List.)

Mondays ....Chamber Summonses.

Tuesdays ...Motions, Short Causes, Petitions, Procedure Summonses, Further Considerations and Adjourned Summonses.

Wednesdays .Adjourned Summonses.

Thursdays ....Adjourned Summonses.

Fridays .....Motions and Adjourned Summonses.

Before Mr. Justice FARWELL.

(The Witness List. Part II.)

Mr. Justice FARWELL will sit daily for the disposal of the List of longer Witness Actions.

THE COURT OF APPEAL.

A List of Appeals for hearing, entered up to Friday, 15th September, 1933.

FROM THE CHANCERY DIVISION.

(Final List.)

Woodrow v Long Humphreys and Co Ltd
The Performing Right Society Ltd v Hammond's Bradford Brewery Co Ltd
Re McCall McCall v Rodway
Re Hill's Trusts Claremont v Hill
Re Duke Public Trustee v Duke
Re Russ & Brown's Contract Re Law of Property Act 1925
Re Somech Ellis v Somech
Re Chapman Public Trustee v Chapman
Great Grimsby Street Tramways Co v The Urban District Council of Cleethorpes
Southstrand Estate Development Co Ltd v Worthing Rural District Council
Re Joicey Joicey v Elliot
Re Dove Molesworth v Bevan (not before Oct 31)
Davis v Wright
Re Pegglesworth Estate Trusts Dalziel v Bowen
Re Dawson Moon v Dawson
Lockey v R W Munro Ltd

FROM THE COUNTY PALATINE COURT OF LANCASTER.

(Final List.)

New Central Hall (Blackburn) Ltd v Shorrock
Re Moseley Kavanagh v Moseley

FROM THE PROBATE AND DIVORCE DIVISION.

(Final List.)

Divorce Buck v Buck (Kebbell, co-respondent)
Divorce Adam v Adam

FROM THE CHANCERY DIVISION.

(In Bankruptcy.)

Re a Debtor (No. 638 of 1930) Exparte The Debtor v The Petitioning Creditor and The Official Receiver
Re Charatan, A Exparte Hilda Lucia Nicoletta Sambon v The Trustee
Re Tooth, A Exparte The Trustee v Vivian Artemus Tooth
Re a Debtor (No. 29 of 1931) Exparte The Debtor v The Petitioning Creditors

FROM THE CHANCERY AND PROBATE AND DIVORCE DIVISIONS.

(Interlocutory List.)

Parkes v Williams

FROM THE KING'S BENCH DIVISION.

(Final and New Trial List.)

Andrews Bros (Bournemouth) Ltd v Singer & Co Ltd
Murphy v Shilson
Walley v United Dairies (Wholesale) Ltd
Hart v Kamiya
Harris v Thompson
The Maple Flock Co Ltd v Universal Furniture Products (Wembley) Ltd
Guidice v Guildford Corporation
Burr v The Anglo-French Banking Corporation Ltd
Hiller v United Dairies (London) Ltd
Tidy v Battman
Sutherland v The Administrator of German Property
Winget Ltd v H Smith Bros
Knott v The London County Council
The King v The Minister of Transport (Exparte Grey Coaches Ltd)
Re Arbitration Act 1889 Central Softwood Buying Corporation Ltd v White Sea Timber Trust
Dollar v Harrison King v Same
Brougham v Garland Smith & Co
J & J Beaulah Ltd v Bushell Brothers Ltd
Shamrock Shipping Co Ltd v Kelley
Thomson v Simpson
Simpson v Charrington & Co Ltd
Jewson & Sons Ltd v Arcos Ltd
Pounder v London County Council
Honeywill & Stein Ltd v Larkin Bros (London's Commercial Photographers) Ltd
Roxburgh v Butler
Piddington v H W Nevill Ltd
Phillips v Edwards Same v Homan
Re Arbitration Act 1889 Barton v Blackburn (from Interlocutory List)
Rich v Ilford Ltd
Same v Same
Sandham v Astin
McArdle v Egan
Dunn v Ocean Accident and Guarantee Corporation Ltd
Da Costa v Jancshore Motors Ltd
Green v Moriarty
The King v Traffic Commissioners for the Yorkshire Traffic Area (Exparte Galley)
Coudert v Thos Cook & Son Ltd
Groves v Joseph Rodgers & Sons Ltd
The King v The Assessment Committee of the City of Westminster (Exparte Black)
Hillen v I C I (Alkali) Ltd Pettigrew v Same
Coventry Corporation v Surrey County Council
Roberts v McCandlish
Lancashire Loans Ltd v Black
Same v Same
The King v The Minister of Transport (Exparte Upminster Services Ltd)
Re Housing Acts 1930 The Premier Garage Co (Ilkeston) Ltd v Ilkeston Corporation
Brown v The Equitable House Property Co Ltd
The King v The Justices of Sussex (Exparte Bubb)
de Lacy v Watson
Brown v Stokes
Barton v Eagle Star & British Dominions Insurance Co Ltd
London County Council v Alford
Doo v Clements
S Baron Ltd v Mydatt
Burrows v Southern Railway Co
Re Agricultural Holdings Act 1923 Sharpley v Norfolk
Rigg v Holt
Gewurz v Pierre Lautman & Cie
Sommers v A Oppenheimer & Co
Eastcott v Tree
Same v Same
Akties Steam v Arcos Ltd
Akties Bruusgaard v Same
Edwards v London General Omnibus Co Ltd
Moore v Bower Cotton & Bower
Liddiard v Waldron
Lancashire Loans Ltd v Black
Fisher v Vocalion Gramophone Co Ltd (in liquidation)
Jantzen v White Hall Residential Hotels Ltd
Gillie v Smith
Crean v James Crean & Sons Ltd
Barclays Bank Ltd v Trevanion
Sun Life Assurance Company of Canada v W H Smith & Son Ltd
Rudland v Pybus Bros
Daley v Carr-Dickinson

Dearden v C T Faulkner & Co Ltd
Powell v Streatham Manor Nursing Home
Union Investment Co Ltd v Holmwoods and Back and Manson Ltd
Kuklos Ltd v Lee Motor Works (Bournemouth) Ltd
Same v Same
Steel v Bache
Addis & Keen Ltd v G Horn (Kempston) Ltd
Hall v Stroud
de Becche v The South American Stores (Gath and Chaves) Ltd
Barclays Bank Ltd v Moult
Mason v The London & North Eastern Railway Co
The Association of Master Lightermen and Barge Owners (Port of London) v The Southern Railway Co
Mackay v Henlere
Karflex Ltd v Kirby
Daniel v The Great Western Railway Co
Aldenham v Campbell
Turner v Tew
S. I. T. A. v Bank of London Ltd
Lesslie v Co-operative Wholesale Society Ltd
Tuppen v Watney
Trollope & Colls Ltd v Rosser & Russell Ltd
Jones v George Dutton & Son Ltd (R Williamson Ltd, Third Party)
O'Sullivan v Davis Davis v O'Sullivan
Re The Housing Acts, 1925 and 1930 Re The London County Council (Ellen Street No. 1) Order, 1932 Ellen Street Estates Ltd v The Minister of Health
Re The Housing Acts, 1925 and 1930 Re The London County Council (Ellen Street No. 2) Order, 1932 Ellen Street Estates Ltd v The Minister of Health
Hole v Walton Brierley v Same
Martin v Bannister

(Revenue Paper—Final List.)

Cole v Commissioners of Inland Revenue
Attorney-General v Lloyds Bank Ltd
Birmingham Corporation v Barnes (H.M. Inspector of Taxes)
Watson & Everitt v Blunden (H.M. Inspector of Taxes)
The Golden Horse Shoe (New) Ltd v Thurgood (H.M. Inspector of Taxes)
Page v Butterworth (H.M. Inspector of Taxes)
Townsend (H.M. Inspector of Taxes) v Grundy
Attorney-General v Southport Corporation
Heastie (H.M. Inspector of Taxes) v Veitch & Co
Ryall (H.M. Inspector of Taxes) v The Du Bois Co Ltd

(Interlocutory List.)

Nichaichand Navalchand v McMullan
Ebury Garages Ltd v Agard
Price v The Great Western Colliery Co Ltd
Telsen Electric Co Ltd v Anglo American Chemical Co Ltd
Douglas v Marconi's Wireless Telegraph Co Ltd

FROM THE ADMIRALTY DIVISION.

(Final List.)

With Nautical Assessors.

"Scheldestad" 1932—Folio 257 The Owners, Masters and Crew of Salvage Vessels "Man Breadt" and "Seefalke" v The Owners of S.S. "Scheldestad" Cargo and Freight
"Segundo" 1932—Folio 182 The Owners of S.S. "Turakina" v The Owners of S.S. "Segundo"
"Stentor" 193—Folio 98 The Union Castle Mail S.S. Co Ltd Owners of S.S. "Guildford Castle" v China Mutual Steam Navigation Co Ltd Owners of S.S. "Stentor"
Same v Same

APPEALS.

Re The Workmen's Compensation Acts.

(From County Courts.)

North's Navigation Collieries (1889) Ltd v Batten
Hart v Garswood Hall Collieries Co Ltd (Middleton and Wood 1919) Ltd Third Parties)
Suffling v J Malcolm & Co
Francis v The London Public Omnibus Ltd
Moore v Cunard Steamship Co
London General Omnibus Co Ltd v Winyard
Hillier v Tungsten Manufacturing Co Ltd
Osborne v Wade
Ewers v Curtis
Mascall v Bowlby
Auty v John E Rushworth Ltd
Evans v Raglan Collieries Ltd
Cole v The Amalgamated Anthracite Collieries Ltd
Edwards v Laurence Scott Electromotors Ltd

CHANCERY DIVISION.

APPEALS AND MOTIONS IN BANKRUPTCY.

Pending 31st August 1933.

Appeals from County Courts to be heard by a Divisional Court sitting in Bankruptcy.

Nil.

Motions in Bankruptcy for hearing before the Judge.

Re Bartlett, K E Exparte Edith Markham (married woman) v The Trustee
Re Farnham, G Exparte Albert Farnham v The Official Receiver (Trustee)
Re Frankford, P, dec Exparte Sarah Frankford v The Trustee
Re Lazarus, G Exparte Benjamin George Arthur (Trustee) v Harry Golker

HIGH COURT OF JUSTICE.—CHANCERY DIVISION.

There are Three Lists of Chancery Causes and matters for hearing in Court. (I) Adjourned Summonses and Non-Witness actions; (II) Witness Actions Part I (*the trial of which cannot reasonably be expected to exceed* 10 *hours*) and (III) Witness Actions Part II; every proceeding being entered in these lists without distinction as to the Judge to whom the proceeding is assigned. During the Sittings there will usually be two Judges taking each of these lists and warning will be given of proceedings next to be heard before each Judge. Applications in regard to a "warned" matter should be made to the Judge before whom it is "warned."

Applications in regard to a proceeding which has not been "warned" should usually be made to the senior of the two Judges taking the list in which the proceeding stands.

Motions, Short Causes, Petitions and Further Considerations will be taken by that one of the Judges taking the Non-Witness List who belongs to the group to which the proceeding is assigned.

Group I.—Mr. Justice Eve, Mr. Justice Maugham and Mr. Justice Bennett.

Group II.—Mr. Justice Clauson, Mr. Justice Luxmoore and Mr. Justice Farwell.

MICHAELMAS SITTINGS, 1933.

The Adjourned Summons and Non-Witness List will be taken by Mr. Justice Luxmoore and Mr. Justice Bennett.

The Witness List Part I will be taken by Mr. Justice Clauson and Mr. Justice Maugham.

The Witness List Part II will be taken by Mr. Justice Eve and Mr. Justice Farwell.

Motions, Short Causes, Petitions and Further Considerations in matters assigned to Judges in Group I will be heard by Mr. Justice Bennett.

Motions, Short Causes, Petitions and Further Considerations in matters assigned to Judges in Group II will be heard by Mr. Justice Luxmoore.

Companies (Winding up), Liverpool & Manchester District Registries and Bankruptcy business will be taken as announced in the Michaelmas Sittings Paper.

Set down to 15th September, 1933

Mr. Justice Eve and
Mr. Justice Farwell.
Witness List. Part II.
Before Mr. Justice Eve.

Retained Adjourned Summonses.

Re Ernest's Settlement Cropton v Corfield (pt hd)
Re Elliott Raynham v Head (pt hd)

Before Mr. Justice Farwell.

Retained Matters.
Witness List. Part I.

Aronson v The London and Northern Trading Co Ltd

Adjourned Summonses.

Re Boyer Neathercoat v Lawrence (pt hd)
Re Sulley Munster v Sulley (with witnesses) (pt hd)
Re Same Same v Same
Re Same Same v Same
Re Same Same v Same
Re Clements Public Trustee v Jones
Re Parsons Thompson v Parsons (s.o. to Oct 16)

Mr. Justice Eve and
Mr. Justice Farwell.
Witness List. Part II.

Cornish Kaolin Ltd v Varcoes China Clays Ltd
Marconi's Wireless Telegraph Co Ltd v J B Cramer & Co Ltd
Marconi's Wireless Telegraph Co Ltd v Philco Radio and Television Corporation of Great Britain Ltd
Re Galinski Cohen v Galinski
Dell'Elmo v British Sound Films Productions Ltd (restored) (s.o. for depositions)
Re Petition of Right of Liverpool Corporation (not before Hilary 1934)
Todrick v Western National Omnibus Co Ltd
Winzer v Kingsbridge Rural District Council
Ricardo v Rootes Ltd (not before Oct 12)
Re Cohen's Settlement Cohen v Cohen
Re Octron Ltd's Agreement Octron Ltd v Neutron (1927) Ltd
Barclays Bank Ltd v Salbstein
L G Automatic Services Ltd v T B Brown Ltd (s.o. for security)
Lambournes (B'ham) Ltd v Cascelloid Ltd
Perkins v Perkins
Watson v Churchouse
Re Streatham Greyhounds Ltd Re The Companies Act 1929
C & T Harris (Calne) Ltd v Harris
Re Pharmaceutical Corporation Ltd Blackburn v The Company
Hertfordshire County Council v Lea Sand Ltd (restored)
Re Farmer Abbot v Farmer (with witnesses)
National Provincial Bank Ltd v Gaen
The English Sewing Cotton Co Ltd v The Derwent Valley Water Board
Lloyds Bank Ltd v Matthews
Hertford Corporation v Wynter
Tomlin v Acme Engineering Co Ltd (restored)
Re Chowne's Settlement Chowne v Chowne
Re Same Same v Same
Wilson v Palmar
Attorney-General v The Executive Board of the Durham District (Coal Mines) Scheme 1930
Hollandsche Maatschappij Voor Gecondenseerde Melk N V (The Condensed Milk Company of Holland) v Distributors Ltd
Re Thompson Thompson v Thompson (restored)
Re Same Same v Same
Re Back Back v Back
Re Same Same v Same
Re Carson Carson v Carson
Ilbert v Ilbert
Re Chandler's Settlement Illingworth v Harrison
Hunter v Hunter
Same v Same
Morriss v Public Trustee
J W & T Connolly Ltd v Imperator Hestesko A S
Jane Developments Ltd v Day (restored)
Re Vulcan Copper Mines Ltd Re Companies Act 1929

Re Rhodesia Border Mining Corporation Re Companies Act 1929
Egerton v Bayliss
Ellis v Greenleaf
Upcher v Clarke
Pritchard v Grainger
British United Shoe Machinery Co Ltd v Isaacson
Stringer v Stringer
Re Cave Bridge v Haywood
Childs v Charke
Attorney-General v Eastbourne Corporation
Mitchell v West's Gas Improvement Co Ltd
Shashoua v Shashoua
Re Parent Trust and Finance Co Ltd Re Companies Act 1929 (with witnesses)
Bromley's Trustee v Kemsleys (Bromley and ors, Claimants)
Re Jacobs Williams v Jacobs
Morny Ltd v Hales
Perrott v Simpson
Pittman v Wood
Raynor v Sherwood Colliery Co Ltd
Blake v Taylor
Re Stokers Ltd Re Companies Act 1929
Idell v Potter
Martini & Rossi Societa Anonima v de Bressy
Re Neilson McTurk v Croney
Shropshire Iron Co Ltd v Oakengates Urban District Council
Westcliff-on-Sea Motor Services Ltd v Bridge
Re Patents and Designs Acts 1907 to 1932 Re C Birnbaum Ltd's Registered Design No 750392
Re Griffiths (Building Contractors) Ltd Re Companies Act 1929
Green v Hodges
Re Walton Austin v Norris
C Birnbaum Ltd v Levine & Son
Speed Gears Ltd v Hambro
Thomas v Thomas
Goodenday v New Zealand Sulphur Co Ltd
Owen's Trustee v Johnston
B Borst Ltd v Borst
Yates v Lukies

Mr. Justice CLAUSON and Mr. Justice MAUGHAM.
Witness List. Part I.

Actions, the trial of which cannot reasonably be expected to exceed 10 hours.

Before Mr. Justice CLAUSON.
For Judgment.
Witness List. Part II.

Warwickshire Coal Co Ltd v Coventry Corpn

Before Mr. Justice MAUGHAM.
Companies Court.
Petitions.

Alliance Bank of Simla Ltd (to wind up—ordered on Dec. 21, 1931, to s.o. generally—liberty to restore)
Dwa Plantations Ltd. (same—s.o. from March 27, 1933 to Nov. 6, 1933)
Britivox Ltd (same—ordered on Nov 16, 1931 to s.o. until action disposed of—liberty to restore)
Herbert Nicholls Ltd (same—s.o. from June 27, 1932 to April 30, 1934)
Max Mayer Ltd (same—s.o. from May 29, 1933 to Oct. 16, 1933)
London Clinic and Nursing Home Ltd (same—ordered on May 8, 1933 to s.o. generally—liberty to apply to restore)
Bell Top Hosiery Co Ltd (same—s.o. from July 24, 1933 to Oct. 9, 1933)
Burnip & Macdougall Ltd (same—s.o. from July 24, 1933 to Oct. 16, 1933—with witnesses)
Veneers Ltd (same—s.o. from July 17, 1933 to Oct 9, 1933)
Kris Cruisers Ltd (same—s.o. from July 24, 1933 to Oct. 9, 1933)
Taglioni Ltd (same—s.o. from Sept. 6, 1933, to October 9, 1933)
Beattie Coaches Ltd (same—s.o. from July 24, 1933 to Oct. 9, 1933)
Ekaterinburg Syndicate Ltd (same—s.o. from July 28, 1933 to Oct. 9, 1933)
Thom Sons & Co Ltd (to wind up)
John Phillips & Sons Ltd (same)
E H Druce & Co Ltd (same)
Darlington Rustless Steel & Iron Co Ltd (same)
Anglo International Holdings Ltd (same)
Gironimo's Ltd (same)
A & E Durn & Co Ltd (same)
Thomas McDowell Ltd (same)
Gem Labor Saving Device Co Ltd (same)
Chalmers Guthrie & Co Ltd (same)
C W Chambers Son & Co Ltd (same)
Home Counties Insurance & Hire Purchase Ltd (same)
Fireproof Shutters & Doors Ltd (same)
Collister & Co Ltd (same)
National Insurance & Guarantee Corpn Ltd (same)
Dagenham Construction Co Ltd (same)
Gilbert Plate Co Ltd (same)
Dyson & Sons (Bognor) Ltd (same)
Crissy Bell et Cie Ltd (same)
Scala Pin Table Manufacturers Ltd (same)
Pathé Freres Pathephone Ltd (same)
S M Goodman Ltd (same)
Crown Oil Products Ltd (same)
North & Sons Ltd (same)
M Choinacky Ltd (same)
Clifford & Snell Ltd (same)
Portland Products Ltd (same)
Robert Barlowe & Co Ltd (same)
Lucette (Bradford) Ltd (same)
Sidney Marks Ltd (same)
Sozira Films Ltd (same)
Bardiger Brothers Ltd (same)
Jatur Co Ltd (same)
Garvin & Gerrard Ltd (same)
M Cohen Son & Girling Ltd (same)
L G Sharp (1929) Ltd (same)
A Weitzmann Ltd (Petition of M. Prooth) (same)
A Weitzmann Ltd (Petition of George Norden Ltd (same)
Rose Lewis (Tees Side) Ltd (same)
B M E A (Textiles) Ltd (same)
Church Property Trust Ltd (same)
Paul Ruinart (England) Ltd (to confirm reduction of capital)
British Woollen Cloth Manufacturing Co Ltd (to confirm reduction of capital—ordered on Dec. 8, 1930 to s.o. generally—liberty to restore)
Charles Brown & Co Ltd (to confirm reduction of capital)
Commercial & Agency Co of Egypt Ltd (same)
Lamlok Ltd (same)
H Andrew & Co Ltd (same)
Berkeley Property & Investment Co Ltd (same)
Wm Hibberd & Co Ltd (same)
Samuel Osborn & Co Ltd (same)
New Bagworth Coal Co Ltd (same)
T H Downing & Co Ltd (same)
Great Southern Cemetery and Crematorium Co Ltd (same)
Thomas Bradbury & Sons Ltd (same)
British Movietonews Ltd (same)
Superflexit Ltd (same)
Goonvean China Clay & Stone Co Ltd (same)
W C Holmes & Co Ltd (same)
Geo Richardson & Co Ltd (same)
Sevenoaks Park Estate Co Ltd (same)
Manufacturers' Investments Ltd (same)
de Jersey & Co (Finland) Ltd same)
Utol Ltd (same)
Mergui Crown Estates Ltd (same)
Smokeless Combustion Co Ltd (same)
Metropolis & Bradford Trust Co Ltd (same)
Welch Margetson & Co Ltd (same)
Drayton Iron & Steel Co Ltd (same)
New Callao Gold Mining Co Ltd (same)
Wheal Reeth Tin Ltd (same)
R E Jones Ltd (same)
Charles Jones & Sons Ltd (same)
Tone Vale Manufacturing Co Ltd (same)
Gresham Street Warehouse Co Ltd (to confirm alteration of objects)
Keren Kayemeth Leisrael Ltd (same)
Slate Slab Products Ltd (to sanction scheme of arrangement—ordered on Oct. 13, 1931 to s.o. generally—liberty to restore)
Dorricotts Ltd (to sanction scheme of arrangement)
Colchester Brewing Co Ltd (s. 155)
Queen's Club Garden Estates Ltd (s. 155)
Western Mansions Ltd (s. 155)
Metallic Seamless Tube Co Ltd (s. 155)
Chesterfield Tube Co Ltd (s. 155)
British Italian Banking Corporation Ltd (s. 155)
E W Rudd Ltd (to confirm reorganisation of capital)
Spaull Son & Co (India) Ltd (to restore name to register)
Barry & Staines Linoleum Ltd (s. 372)
Kepston Ltd (to stay winding up and confirm reduction of capital)
Pearcelands Jersey Herd & Dairies Ltd (to sanction scheme of arrangement and confirm reduction of capital)

Motions.

Trent Mining Co Ltd (ordered on July 31, 1931 to s.o. generally—liberty to restore—retained by Mr. Justice Maugham)
Braceborough Spa Ltd

Adjourned Summonses.

City Equitable Fire Insce Co Ltd (appln of Liverpool and London and Globe Insce Co Ltd) (ordered on April 8, 1930 to s.o. generally—liberty to restore——retained by Mr. Justice Maugham)
Orchorsol Sound Reproduction Ltd (appln of T. Froude—with witnesses—ordered on Nov. 11, 1932 to s.o. generally)
Marina Theatre Ltd (appln of F H Cooper—with witnesses—ordered on May 10, 1933, to s.o. generally—liberty to apply to restore)
W Smith (Antiques) Ltd (appln of Liquidator—with witnesses—ordered on Dec. 8, 1932 to s.o generally)
Braceborough Spa Ltd (appln of G Turquand—with witnesses)
Bennet Burleigh Ltd (appln of J W Webster)
Walter Symons Ltd (appln of T D Cocke)
Watkins & Laing Ltd (appln of C H Davis—with witnesses)
Aeroto Ltd (appln of Lightalloys Ltd—with witnesses)
Blue Cross Line Ltd (appln of Lombard Joint Stock Trust Ltd—with witnesses)
Beni-Felkai Mining Co Ltd (appln of H.M. Attorney-General)
Byron Steamship Co Ltd (Appln of M H Ali)
M & H Victor Ltd (appln of Midland Bank Ltd—with witnesses)
Westminster Syndicate Ltd (appln of O R and Liquidator)
Blue Bird Petrol Ltd (appln of T L Wood)
Same (appln of W S Ashton)
Same (appln of B Stapleton)
Metallisation Ltd (appln of Metals Coating Co Ltd)
Novelty Silks Ltd (appln of Joint Liquidators—with witnesses)
New Central Hall Blackburn Ltd (appln of British Talking Pictures Ltd—with witnesses)
Thompson & Partners Ltd (appln of D Leighton & Sons Ltd)
Nathan Tash Ltd (appln of Liquidator—with witnesses)
Same (Application of Liquidator—with witnesses)

Mr. Justice CLAUSON and Mr. Justice MAUGHAM.

Witness List. Part I.

Andersen v Lloyds Bank Ltd
Re Galloway's Settlement Galloway v Galloway
Richardson v Harvey
Turner v Turner
Howe v Nordon
Re Rigby Rigby v Rigby
Albion Securities Ltd v Beattie
Lorel Optical Co Ltd v Goldberg (restored)
Palmer v Bladen Dairies Ltd
Re Finch Finch v Harris
Re Roessler Roessler v Roessler (restored)
Nurse v Felpham Beach Ltd
Fairbairn v Same
Consolidated Entertainments Ltd v Needham
F W Woolworth & Co Ltd v Casey
Re Dixon Goodson v Dixon
Genet v Johnson
Hitchin v Gee
J C Williamson Ltd v Julian Wylie Productions Ltd
Re Tailby Tailby v Quick
Leigh v Leigh
Re Trade Marks Acts, 1905-1919 Re Amplion (1932) Ltd's Trade Mark No. 465534
Reason v Paterson
Lewis v Bellamy
Stimson v Gibson
Smith Bartlett & Co v British Pure Oil, Grease & Carbide Co Ltd
Knight v Norwood Auto's Ltd
Leberman v Reynolds
Deane v Deane
Porri v Paros

Newton Abbot Development Co Ltd v Burnett
Miller v Kemp
Wallington v Stacey
Banham v Harmer
Brown v King
Graham v Pemberton
Jones v Jones
Maurice Pazery & Co Ltd v Nageles
Wilson v B A Miller & Co Ltd
Evans v Cohen
Cassels v Cassels
Tudor v Findon
Disney v Palmer
Re Dean's Settlement Dean v Briggs
Re George Lloyds Bank Ltd v Kent
Re Oirschot Re Married Women's Property Act, 1882
United Kingdom Property Co Ltd v Finch
Barclay v Meyler (restored)
Cromwell Property Investment Co Ltd v Western
Isenberg's Trustees v Ridpath
Gramophone Co Ltd v Stephen Carwardine & Co
Kadishewitz v Kadishewitz
Church's Trustee v Robinett
Bale & Church Ltd v Sutton Parsons & Sutton
Barbour v Jolley
Re Lennard Lennard's Trustee v Lennard
Re Barraclough Sutcliffe v Barraclough
Staffordshire and Worcestershire Canal Co v The Severn Commissioners
Re Smallbone Jobson v Smallbone
Alfred Dunhill Ltd v Horton
Nachman Kremer & Sons Ltd v Berton
Vyver v Humpage
Flower v Same
Lewis v Capell
Re Veneered Plywood Panel Manufacturing Co Ltd Lachowsky Ltd v The Company
Alfred Dunhill Ltd v Griffiths Bros
Sutcliffe v Keith
Harrison v Imperialads Ltd
Townend v Askern Coal & Iron Co Ltd
Re Smith Vincent v Smith
Jacobs v Shepherd
Goldstein v Phillips
John Byford & Sons Ltd v Jackson
Kent v Rice
Re Aron Poland v Aron
Re Same Same v Same
Re Same Same v Same
Abbey Sports Co Ltd v H Driver Ltd
Bramson v Joseph Bonn Ltd
Re Goldberg Goldberg v Badcock
Sauer v Hopper
Same v Same
London Die Casting Foundry Ltd v Alicombe Estates Ltd
Daw v Daw
Re Crowne Davis v Crowne
Re King King v Ferber
Performing Right Society Ltd v Metro-Goldwyn-Mayer Pictures Ltd
Gillette Industries Ltd v Maclow
Little v Durham
King v Woodward
Payne v Corby
Cecil Lennox Ltd v Metro-Goldwyn-Mayer Pictures Ltd
C C Wakefield & Co Ltd v Purser
Aldrington-on-Sea Estates Ltd v Baxter
Woods v Woods
Rider v Spencer
Rigler v Rigler
Savework Ltd v "Hygena" Cabinets Co Ltd
Coulson v Carlstrom
Pearl Assurance Co Ltd v Fox
Armstrong v Forward
Trafalgar Insurance Co Ltd v Earle
Ravenscroft v Brown
Chipper v Suter
Ward v Ritchie
Kelly's Directories Ltd v The Wembley Press
Hucklesby v Parker
Montagu - Stuart - Wortley v Worsley
Whatsley v Cohen
Bates v Crockford Ltd
Percival v Jordan
Pitt v Super Cinema & Theatre (Evesham) Ltd
Re General Equipment Ltd Re Companies Act, 1929

Mr. Justice LUXMOORE and Mr. Justice BENNETT.

Adjourned Summonses and Non-Witness List.

Before Mr. Justice LUXMOORE
For Judgment.
Assigned Petition.

Re Thomson's Letters Patent No. 304372
Re Patents and Designs Acts 1907-1932

For Hearing.
Retained Action.
Witness List. Part I.

McEllins Chemicals Ltd v Berry Hill Collieries Ltd (to be mentioned)

Assigned Petition.

Re Imperial Chemical Industries Ltd's Letters Patent No 361917 of 1930 Re Patents and Designs Acts 1907-1932

Procedure Summons.

Goodenday v New Zealand Sulphur Co Ltd

Further Consideration.

Marks Gill & Bassett Ltd v Robinson

Mr. Justice LUXMOORE and Mr. Justice BENNETT.

Adjourned Summonses and Non-Witness List.

Adjourned Summonses.

Re Shaw's Indenture Shaw v Anderton
Anderton v Shaw
Re Clark Pratt v Hamilton
Re Wyndham Albery v Albery
Re Forman Milnes v Buckley
Re Hall Eglington v Harrison
Re Grace and Hughes' Partnership Deed Hughes v Grace
Re Johnson Oldham v Johnson
Re Odell Chaplin v Odell
Re Alcock Alcock v Alcock
Re Madge Bellamy v Madge
Carter v Carter
Re Cheyne's Settlement Sutherland v Cheyne
Re Belbin Norton v Belbin
The National Council of the Young Men's Christian Associations of India, Burma and Ceylon v The National Council of Young Men's Christian Associations (Incorporated) (restored)
Re Wray Slade v Welch
Re Purssell Winstanley v Purssell
Re Boatman Whitby v Peploe
Re Blake King v Blake
Re United Cemeteries Ltd Cooper v The Company
Re Kitchin Public Trustee v Aster
Re Park Wood v Park
Re Marsh Evershed v Bain
Re Wood Wedlake v Wood
Re Wilkinson Uzielli v Brisco-Owen
Re Van Zwanenberg Van Zwanenberg v Van Zwanenberg
Re Bailey Hart v Hart
Re Stevens Colley v Hulton
Re Temple Turner v Temple
Re James Grenfell v Hamilton
Re Howard's Policy Trusts Public Trustee v Knowles
Re Humble-Crofts' Settlement Humble-Crofts v Humble-Crofts
Re Gates Temple v Gates
Re Salomons Cooke v Henriques
Re Graham Westminster Bank Ltd v Duus
Re Cheam Common School Re Land Registration Act 1925
Re Adie Adie v Dawes
Re Brandon Brandon v Foulsham
Re Caus Lindeboom v Camille
Re Coode Coode v Coode
Re The Eden Settled Estates Eden v Fogg Elliot
Re Troyte-Bullock's Settlement Re Settled Land Act 1925
Re Norris Jacobs v Norris
Re Lund Smith v Lund
Re Jenkins Butt v Dr Barnardo's Homes
Re Bushnell Roberts v Lea
Re The Colonial Bishoprics' Fund Re Charitable Trusts Acts 1853 to 1925
Re Hainsworth Anderson v Symes
Re Soffe Soffe v Soffe
Re Brown Brown v Brown
Re Cookson Public Trustee v Cookson
Richards v Richards
Re McConnell's Trust Packe v Queenborough
Re Best Best v Best
Re Harrison's Trust Inglis v The Hospital for Sick Children
Re Turner Ford v Burchardt
Re Sunderland Blenkiron v Sunderland
Re Boor Scrafton v St Dunstan's Organisation for Blinded Soldiers, Sailors and Airmen
Re Ford Ford v Ford
Re Ryder's Trust Deed Ryder v Twyford
Re Mar Rutherford v Baker
Re Gile's Settlement Re The Trustee Act 1925
Re Chambers Rushby v Rushby
Re Wade Robinson v Wade
Re Barnard Moresby v Barnard
Re Swinton Estates Ltd's Conveyance Re The Law of Property Act 1925
Re Withers Public Trustee v Savidge
Re Glover Healey v Glover
Re Llewellyn Llewellyn v Llewellyn
Re Wilson-Barkworth Burstall v Deck
Re Brown Hildyard v Brown
Re Breeds Baily v Breeds
Re Cattell Cattell v Dodd

KING'S BENCH DIVISION.

CROWN PAPER.—For Argument.

Mayor etc of Gillingham v Mayor etc of Rochester
The King v Mayor etc of the Borough of Shoreditch (exparte Liptons Ltd)
The King v Assessment Committee for the Borough of Shoreditch (exparte Saml Hanson & Son Ltd)
London County Council v Montague Burton Ltd
Pontin v Price
Matthews v King & ors
Dowle v Howard
Thomas v Lewis
Thomas v Thompson
The King v Registrar of Whitehaven and Millom County Court & ors (exparte Wellington Colliery Joint Committee)
Charles v Davies
Goodwin Foster Brown Ltd v The Derby Corporation
Australian Steamship Proprietary Ltd v John Lewis & Sons Ltd
The King v General Commissioners for Income Tax for West Bucklow (exparte Puritan Tanneries Ltd)
Mabbutt v Mann
Higinbotham v Brydges
Drew v Dingle
Same v Truscott
The King v Keepers of the Peace and Jjs of the County of London (exparte Segal)
McDonald v Graham
Harte v Williams
Goldsmith v Deakin
Jones v Thomas
The Law Society v United Service Bureau Ltd
Johnson v Pritchard
Bill v Uxbridge Fisheries Ltd
Markham v The Derby Corporation Acquiring Authority
The King v Clarke Esq & ors, Jjs of Surrey & anr (exparte Dampney)
Ratcliffe v McEvoy
Utton v Fenwick
Sherwin & anr v The Ullcoats Mining Co Ltd
Clifford v The Rating Authority for the Urban District of Heston and Isleworth & ors
Wilson v Williams
Same v Same
Richardson v Standish
FitzPatrick v Dixon Bate
Threlkeld v William Leigh Ltd
The King v Sir Anthony Compton Thornhill & ord. Jjs of Suffolk & anr (exparte Swaby)
Huggett v Help Yourself Stores Ltd
Holder v Gunning & anr

CIVIL PAPER.—For Hearing.

Coke v Coke
Williams and ors v Nevills Dock and Railway Co Ltd (Llanelly County Court)
Phillips v Copping
Mayor etc of Metropolitan Borough of Battersea v Frank F Fowler Ltd (Battersea County Court)
Myers v Brent Cross Service Co (Willesden County Court)
Jones v Coplans
Coplans v Jones
Winter v C & A Modes Ltd (Whitechapel County Court)

Medlock v McDonald (Mayor's and City of London Court)
Scoggins v Rush (Brentford County Court)
Queen Anne's Bounty v Thorne (Salisbury County Court)
Portheawl Recreations Ltd v Atkinson and wife (Bridgend County Court)
Portheawl Recreations Ltd v Brinkley and ors (Bridgend County Court)
Abbey Road Building Society v Pearson and Howes (Canterbury County Court)
Wrangham v Bodie
Birch Bros Ltd v Barnes Ltd (Wandsworth County Court)
Portman Building Society v Evans
Layton v Rickett (Bow County Court)
Wells v Goodman (Kingston County Court)
In re Solicitors Appeal by Lancegaye Safety Glass Ltd
Knowles and anr v Job and anr (Wandsworth County Court)
Shrank v Lewis and ors (Shoreditch County Court)
Ellis and anr v Horn (Great Grimsby County Court)
Bowring v Manor Motor Co Ltd (West London County Court)
Hathern Industrial Co-operative Society Ltd v Beckett (Loughborough County Court)
The Bedwas Navigation Colliery Co (1921) Ltd v The Executive Board
Bramham & Gale v Lupton (Leeds County Court)
Morris and anr v Skinner (Lambeth County Court)
Rushbrook and anr v Barnett (Nottingham County Court)
Davies v Mayor etc of Huddersfield (Huddersfield County Court)
Philip Pariser & Son v Samuels (Blumstein, Claimant)
Woods and Fletcher v Road Transport and General Insurance Co Ltd
Universal Pictures Ltd v Bryson
Leonard v Electrolux Ltd
Maslin v Green (Shoreditch County Court)
The Oil Products Trading Co Ltd v Societe Anonyme Societe De Gestion D'Enterprises Coloniales
Hodsons Ltd v Mayor etc Nottingham
Oliffe v Hemus (Northleach County Court)
Heaven v Lewis (Pontypool County Court)
Knightsbridge Properties Ltd v Bowie (Westminster County Court)
Exors of A S Brittain v Harrison (Rotherham County Court)
Smellie v Essex County Council (Bow County Court)
Simpson v Tanner (Greenwich County Court)
Stevenson v Coxon (West London County Court)
Fillingham v Pocklington (male) (Marylebone County Court)
British and Colonial Furniture Co Ltd v Laycock (Halifax County Court)
Howell v Lester (Westminster County Court)
Ward and anr v Winsor
F C Gooch & Son v Camelo (male) and M A Camelo (Whitechapel County Court)
George Seers and Rigden Ltd v Whall and ors (Greenwich County Court)
The Haddon Estate Co v Stevenson (Bakewell County Court)
Marshall Knott & Barker Ltd v Arcos Ltd
Harley v Renaut (Westminster County Court)
Brown Bros v H R Anderson (W J Anderson, Clmt) (St. Albans County Court)
Budden v Same (St. Albans County Court)
Whiteman Smith Motor Co Ltd v Chaplin and anr (Bloomsbury County Court)
Barkers & Lee Smith Ltd v Baker (Kingston-upon-Hull County Court)
Blay v Pocock (Windsor County Court)
Bocano v Mirchandani (Southwark County Court)
Mikhail v Cole (Westminster County Court)
Leiserach v Schalet
Hall v Powell (Torquay County Court)
Peirce v Southern Counties Stores Ltd (Bournemouth County Court)
Sackville v Constable Hart & Co Ltd (Thrapston County Court)
L'Estrange v F Graucob Ltd (Llandudno County Court)
Alberte & Sons Ltd v Locke (Colchester, Clacton and Halstead County Court)

SPECIAL PAPER.

Owners of the Tank Steamer "Portolino" v Berlin Dermaptha
Same v Same (Commercial List fixed Nov 7)
Fu Dairde of Genoa, Owner of s.s. "Entella" v Ugleexport of Moscow
R Smith & Son v Eagle Star and British Dominions Insurance Co Ltd
Johnson v Gillies

APPEAL UNDER UNEMPLOYMENT INSURANCE ACT, 1920.

Re Appeal by League of Remembrance (1914-1918) Re Ruth Hewer

APPEALS UNDER THE HOUSING ACTS, 1925 AND 1930.

L C C Ellen Street No 1 Order Application of Rachel Manskleid
Same No 2 Order Application of Rosa King

REVENUE PAPER—Cases Stated.

T Haythornthwaite & Sons Ltd and T Kelly (H M Inspector of Taxes)
G W Selby Lowndes and The Commrs of Inland Revenue
Compagnie Air Union and R B Wilson (H M Inspector of Taxes)
A T V Wareham and A A Wyllie (H M Inspector of Taxes)
"Nora Crampton" and F A Edge (H M Inspector of Taxes)
The Scholl Manufacturing Co Ltd and S R Dealler (H M Inspector of Taxes)
Sir James B Henderson and B Archer (H M Inspector of Taxes)
Executors of J Talbot Clifton, dec and T Jones (H M Inspector of Taxes)
Joe Kaye & Co and S B Kekewich (H M Inspector of Taxes)
Rye & Eyre and Commissioners of Inland Revenue
G H Smith (H M Inspector of Taxes) and York Race Committee
The Commissioners of Church Temporalities in Wales and E V K Bryant (H M Inspector of Taxes)
G J Craddock (H M Inspector of Taxes) and H J V Greenwood

ENGLISH INFORMATIONS.

Attorney-General and Florence Annie Baroness Trent of Nottingham

DEATH DUTIES—Showing Cause.

In the Matter of John William Atkinson, dec
In the Matter of George Eli North, dec
In the Matter of Annie Sharpe, dec
In the Matter of George Bone, dec

PETITIONS UNDER THE FINANCE ACT, 1894.

In re Sir William Thomas Paulin, dec
In re Percy Crossman, dec

ARCHITECTS' REGISTRATION.

At the meeting last Monday of the Architects' Registration Council of the United Kingdom a letter from the president of the recently formed Institute of Registered Architects asking for co-operation and support was considered. The council resolved that the request be not acceded to on the grounds that the new institute could not advance the interests of the architect as a registered person in any matter that is not already the concern of the council.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 12th October, 1933.

	Div. Months.	Middle Price 27 Sept. 1933.	Flat Interest Yield.	†Approximate Yield with redemption
ENGLISH GOVERNMENT SECURITIES			£ s. d.	£ s. d.
Consols 4% 1957 or after	FA	109	3 13 5	3 8 7
Consols 2½%	JAJO	74	3 7 7	—
War Loan 3½% 1952 or after	JD	101	3 9 4	3 8 7
Funding 4% Loan 1960-90	MN	110¼xd	3 12 7	3 8 3
Victory 4% Loan Av. life 29 years	MS	109¼	3 13 3	3 9 9
Conversion 5% Loan 1944-64	MN	116¼xd	4 6 0	3 4 5
Conversion 4½% Loan 1940-44	JJ	111¼	4 0 11	2 14 3
Conversion 3½% Loan 1961 or after	AO	99¾	3 10 2	—
Conversion 3% Loan 1948-53	MS	98¾	3 0 9	3 1 9
Conversion 2½% Loan 1944-49	AO	94¼	2 13 0	2 19 2
Local Loans 3% Stock 1912 or after	JAJO	86¾	3 9 2	—
Bank Stock	AO	346½xd	3 9 3	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	77	3 11 5	—
India 4½% 1950-55	MN	110	4 1 10	3 13 11
India 3½% 1931 or after	JAJO	86½	4 0 11	—
India 3% 1948 or after	JAJO	74½	4 0 6	—
Sudan 4½% 1939-73	FA	110	4 1 10	2 10 3
Sudan 4% 1974 Red. in part after 1950	MN	108	3 14 1	3 7 6
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	101	2 19 5	—
COLONIAL SECURITIES				
*Australia (Commonw'th) 5% 1945-75	JJ	110	4 10 11	3 18 9
*Canada 3½% 1930-50	JJ	100	3 10 0	3 10 0
*Cape of Good Hope 3½% 1929-49	JJ	101	3 9 4	—
Natal 3% 1929-49	JJ	95	3 3 2	3 8 7
New South Wales 3½% 1930-50	JJ	97	3 12 2	3 14 10
*New South Wales 5% 1945-65	JD	109	4 11 9	4 0 9
*New Zealand 4½% 1948-58	MS	107	4 4 1	3 16 10
*New Zealand 5% 1946	JJ	110	4 10 11	3 18 9
*Queensland 4% 1940-50	AO	100	4 0 0	4 0 0
*South Africa 5% 1945-75	JJ	113	4 8 6	3 12 9
*South Australia 5% 1945-75	JJ	109	4 11 9	4 0 9
*Tasmania 3½% 1920-40	JJ	100	3 10 0	3 10 0
Victoria 3½% 1929-49	AO	96	3 12 11	3 16 10
*W. Australia 4% 1942-62	JJ	101	3 19 2	3 17 2
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	85	3 10 7	—
Birmingham 4½% 1948-68	AO	112	4 0 4	3 9 3
*Cardiff 5% 1945-65	MS	109	4 11 9	4 0 9
Croydon 3% 1940-60	AO	92	3 5 3	3 9 3
*Hastings 5% 1947-67	AO	112	4 9 3	3 17 6
Hull 3½% 1925-55	FA	98	3 11 5	3 12 8
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	99	3 10 8	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	72½	3 9 0	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	86	3 9 9	—
Manchester 3% 1941 or after	FA	85	3 10 7	—
Metropolitan Consd. 2½% 1920-49	MJSD	93½	2 13 6	3 0 5
Metropolitan Water Board 3% "A" 1963-2003	AO	86	3 9 9	3 10 10
Do. do. 3% "B" 1934-2003	MS	87	3 9 0	3 10 0
Do. do. 3% "E" 1953-73	JJ	95	3 3 2	3 4 6
*Middlesex C.C. 3½% 1927-47	FA	100	3 10 0	3 10 0
Do. do. 4½% 1950-70	MN	113	3 19 8	3 9 5
Nottingham 3% Irredeemable	MN	85	3 10 7	—
*Stockton 5% 1946-66	JJ	112	4 9 3	3 16 2
ENGLISH RAILWAY PRIOR CHARGES				
Gt. Western Rly. 4% Debenture	JJ	103	3 17 8	—
Gt. Western Rly. 5% Rent Charge	FA	117½	4 5 1	—
Gt. Western Rly. 5% Preference	MA	101	4 19 0	—
‡L. & N.E. Rly. 4% Debenture	JJ	96½	4 2 11	—
‡L. & N.E. Rly. 4% 1st Guaranteed	FA	85	4 14 1	—
‡L. Mid. & Scot. Rly. 4% Debenture	JJ	100	4 0 0	—
‡L. Mid. & Scot. Rly. 4% Guaranteed	MA	91½	4 7 5	—
Southern Rly. 4% Debenture	JJ	103	3 17 8	—
Southern Rly. 5% Guaranteed	MA	113	4 8 6	—
Southern Rly. 5% Preference	MA	101½	4 18 6	—

* Not available to Trustees over par.

† In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

‡ These Stocks are no longer available for trustees, either as strict Trustee or Chancery Stocks, no dividend having been paid on the Companies' Ordinary Stocks for the past year.